

Duchy of Finland—it is retained, and in cases adjudged by court-martial the penalty of death is frequently inflicted. The fact that courts of this latter kind are employed in the trial of "homicides of a political nature, and even those which are remarkable for the gravity of their results," probably affords ample ground for the concluding clause of the report from St. Petersburg, where it is observed that, "Abolished as capital punishment is *de jure*, it has never ceased to exist *de facto*, which stultifies the result of the abolition."

Of other European governments, Spain and Sweden only remain to be mentioned. The information relating to Portugal, Switzerland and other countries has not yet been received. Of Spain it is reported that capital punishment "has never been abolished by the Legislature, although it has temporarily been suspended by mob government;" and in Sweden, it is stated, out of thirteen criminals upon whom, between 1869 and 1878, the sentence of death was passed, only three were executed.

But the inquiries instituted by the Foreign Office have not been confined to Europe. A copious supply of reports is sent by Sir Edward Thornton from the United States, affording facts and evidence of a most conflicting nature. While in some seventeen States the punishment of death is retained and enforced with various degrees of rigor, it has been abolished in Maine, Rhode Island, Wisconsin and Michigan. In Kansas, also, it has, since 1872, been rendered practically inoperative by an enactment that no one convicted of a capital crime can be executed, except when so ordered by the Governor of the State, after the expiration of one year from the date of sentence. Popular opinion upon the subject in America also seems to be unsettled. It is stated, for instance, that in the State of North Carolina there is a growing sentiment against capital punishment, and that "if made a political issue it would be carried." Strong evidence in favor of its abolition is also supplied by the Secretary of State for Rhode Island, where, as already mentioned, the punishment no longer exists. "I think it is safe to say," he observes, "that the sense of our community is strongly against it. I do not recall any effort for many years to have it restored, and I think any proposition to that effect would receive very little sympathy; nor do I think it

can be claimed that homicide has increased in consequence of the abolition of the death penalty. I do not recall an instance where the penalty has presumably had any effect on the commission of the crime." On the other hand, however, an ex-Governor of the State of Ohio declares his conviction that more than three-quarters of the people are in favor of capital punishment, and states that during the term of his official experience he remembers "but one single instance when an opposition to capital punishment was given as a reason why the convict should be pardoned."

Such evidence as we have briefly cited must, on the whole, be admitted by the most zealous advocates of capital punishment to point irresistibly to one conclusion. It cannot be denied that among civilized nations the penalty of death is at the present time seldom inflicted, even in the case of the most heinous offences. In one European country, and in certain American States, the punishment has been formally abolished; in other countries the prerogative of pardon has been so liberally employed that capital sentences are only on rare occasions carried into execution. The merits of capital punishment as a deterrent, it is not our present purpose to discuss; but we may, in conclusion, refer to an opinion upon this point, expressed in the report for the State of Maine, which seems deserving of careful consideration. "The better opinion seems to be that criminals are not deterred from the commission of murder by the fear of the punishment of death which would follow their detection. If they believed that they would be detected and convicted of the crime, in almost every case they would refrain from its commission." Certainty of detection is more essential to an efficient penal code than severity of punishment.—London *Law Times*.

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, June 27, 1881.

Before MACKAY, J.

CAMPBELL v. JAMES et al.

Contract—Misrepresentation.

Held, where the defendants purchased the right from plaintiff to manufacture and sell a patented