

Bennett, I tried to, my Lord, but two of 'em got away before I was aware of it, and I could not find the other two.

The Judge: It is a very serious matter, and I don't know what the result will be. You should have got the assistance of the police. You will see presently what will be the consequences of this. You were sworn, and should not have lost sight of one of them.

Bennett: But, my Lord, they ran away.

The Judge: Is there any policeman to help you.

Bennett: No, my Lord.

The other jurymen then took their seats, when

Mr. Harrington arose to address them for the defence, but

His Lordship pointed out that in a case of felony the law would not permit a jury to separate until a verdict was returned. The only question that now remained for them to consider was as to whether the jury would return a verdict against the prisoner for felony or misdemeanour. If the learned counsel should raise an objection, and if a verdict for felony was returned, the conviction no doubt would be quashed, but he proposed to meet the difficulty by reserving the point.

Mr. Goison here applied, on behalf of the prosecution, that the jury should be discharged and a fresh one empanelled.

His Lordship said that he should certainly not accede to the request, but let the case go to the jury.

The Judge then summed up, and in so doing observed that in a case of that description the bailiff had been sworn to keep them together, and without that was done a charge of felony became invalid, therefore a very serious matter might arise through their separating. Some of them had dispersed and left the others, perhaps in ignorance of the law. He should not, however, undertake to stop the case but should take their verdict upon the evidence, and if they should return a verdict adverse to the prisoner, it would be for another tribunal to decide upon the validity of it. He then directed their attention to the law bearing upon the case, as to whether it was one of misdemeanour or felony, which they must mainly judge of from the state of mind the prisoner was in at the time, and also by his acts.

The jury then considered their verdict, but after some minutes, one of them jumped up and, beseechingly addressing the Court, said that the foreman had refused to stand up for them.

The foreman, indignantly: I deny it, sir.

The Judge: Have you agreed upon your verdict?

The foreman: No, my Lord.

The Judge: Then you will not separate until you have.

The foreman and the dissentient jurymen, in fact the whole of them, appeared to be having a warm altercation, which was quite audible to the whole Court, when his Lordship directed that they should be locked up.

They were then given in charge, and Bennett, in taking possession of them, and looking as an injured man only can look, said, "Now, gentlemen, this way; I'll take care you don't 'slope' this time."

After two hour's absence, they returned into Court with a verdict of 'Guilty' on the misdemeanour count.

The Judge: You have just returned in time to prevent yourselves being incarcerated for the night.

His Lordship directed that the prisoner should stand back, as he did not then intend to sentence him. Then, addressing Mr. Harrington, he observed that in this case, whether the verdict had been one of felony or misdemeanour, he was of opinion that he should not be doing justice to all parties concerned if he did not reserve the point. He should therefore give Mr. Harrington leave to move in a superior Court that the conviction was invalid on the ground that the jury separated after being given into the charge of the bailiff.—*Law Journal*.

## SIMPLE CONTRACTS & AFFAIRS OF EVERY DAY LIFE.

### NOTES OF NEW DECISIONS AND LEADING CASES.

**NEGLIGENCE**—In the absence of evidence to the contrary, trains running over a particular line of railway are to be presumed to be the property of, or at any rate under the control of, the company to whom the line belongs, although other companies have running powers over the part of the line in question.—*Ayles v. The South-Eastern Railway Co.*, 37 Law J. Rep. Exch. 104.

**FRAUDULENT CONVEYANCE—EVIDENCE—COSTS.**—A bill was filed by creditors impeaching a conveyance as fraudulent, but the facts proved failed to establish more than a case of suspicion against the *bona fides* of the transaction; and the same relief having been sought in a bill by other creditors who were also the personal representatives of the debtor and which relief was refused, the Court in dismissing the present bill did so with costs, notwithstanding the reasons for doubting the *bona fides* of the transaction. The widow of the grantor in a deed impeached as fraudulent against creditors, was entitled to a legacy under the will of her husband:

*Held*, that, notwithstanding such interest, on her part, she was a competent witness to prove notice as against the purchasers from the grantee in the impeached deed.

Where a deed is set aside as fraudulent against creditors, a purchaser from the grantee in the impeached deed will not be allowed for improvements made by him on the property.—*Scott v. Hunter*, 14 U. C. Rep. 376.