terms: "As regards shooting, there are forms of the sport which seem carefully designed to exclude the fatigue, the exposure, the uncertainty, which give it genuine excitement, and to substitute an excitement which, as being chiefly sustained by the quantity of game killed, belongs rather to the poulterer than to the sportsman. There is no inconsistency, therefore, in saying that pigeon-shooting is cruel, and that deer-stalking and partridge-shooting is not cruel. The pigeon suffers no more than the partridge, but he suffers without any man being the better for it. The one sport is a source of health and pleasant excitement; the other gives just so much health as can be imparted by a drive from London to Fulham, and so much excitement as might be obtained on a croquet lawn, provided that the balls could feel pain. Everything that tends to make sport physically easy tends in the same proportion to make it morally hurtful. The line between the man who loves cruelty for cruelty's sake and the sportsman would soon be effaced if the ideas of exertion, of self-denial, of endurance, of labour, of submission to privation, were altogether dissociated from field sports."

Dr. Wicksteed concluded by remarking that a very perfect bill against cruelty to animals, forbidding the use of live animals as targets, had been introduced into the House of Commons last session, but had been burked through the influence of the gun clubs.

O'GARA, Q.C., Police Magistrate.—There has been nothing illegal proven under the statute. The prosecution had better wait until public opinion had changed the law. There is no question but that if a bird be properly shot it suffers less than if it had its head cut off. If a man were to kill a sheep, and yet not cut the right artery, he could not be punished. The intention of the party shooting was clearly to kill the bird; if he failed it was an accident.* The case is dismissed.

Wicksteed, *Bishop* and *Greene*, for the prosecuting society.

Christie and *Belcourt*, for the defendant.

*With many so-called sportsmen the killing and not the wounding would be the accident. Apart, however, from this practical observation there will be many who will doubt the soundness of this decision.—EDITOR *Law Journal*.

NOTES OF CANADIAN CASES.

PUBLISHED IN ADVANCE BY ORDER OF THE LAW SOCIETY.

COURT OF APPEAL.

Osler, J.A.] [July 16.

REGINA v. SANDERSON.

Canada Temperance Act—Offence—Conviction—Habeas Corpus—Certiorari—Distress warrant—Commitment.

A prisoner having been convicted of an offience under the Canada Temperance Act, an application for her release was made under a *habeas corpus*, and a writ of *certiorari* was also issued,

Held, that the writ of *certiorari* must be superseded, and following *Regina* v. *Wallace*, 4 O. R. 127, that such writ cannot issue merely for the purpose of examining and weighing the evidence taken before the magistrate.

Held, also, that no minute of the conviction need be served on the defendant, and that she must take notice of the conviction at her peril.

Held, also, that the truth of the return of the distress warrant cannot be tried upon affidavits.

Held, also, that the bailiff's duty was to execute the warrant of commitment, and that he had no authority to receive the penalty and costs.

Held, also, that the warrant of commitment need not be dated at all if not issued too soon.

Held, also, that the conviction was regular on its face, and could not be reversed or quashed on this application. While unrevised it warranted the commitment, and the prisoner was therefore remanded.

Kappele, for the application.

Irving, Q.C., contra.