

The Legal News.

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The Lauderdale Peerage case, the facts of which will be found on page 193 of this volume, has been decided in favour of Major Maitland. The report of the decision of the House of Lords has not yet appeared, but the effect of the judgment is to maintain the validity of the marriage of Sir Richard Maitland in New York prior to the Revolution.

Some of our contemporaries, as for instance, the *Boston Law Record* and the *Columbia Jurist*, suspend publication during the Long Vacation, and this, of course, is a simple expedient for tiding over the dogdays. We have endeavoured hitherto to let the *Legal News* appear with as much regularity as our other engagements would permit, but this summer an unavoidable absence has delayed our issue for a few weeks. The numbers in arrear will be issued as speedily as possible, so that there will be no break in the volume. Some of our correspondents will please accept the same reason for apparent inattention to their communications.

THE CASE OF RIEL.

The Riel agitation has not made much impression on the country as yet. It does not follow that by dint of clamour an excitement in his favour may not be stirred up. The political agitator is impelled by necessities that render him very persistent, and he may, perhaps, be aware of the fact that a bad argument is almost as effective as a good one, and that a volley of contradictory arguments answer his purpose better than the most closely reasoned theme. His object is to captivate votes, and what is repulsive to one voter may be very taking to another. The speeches attributed to the speakers at the recent meetings at Montreal, Levis and Ottawa

strikingly illustrate the peculiar dangers of mass-meetings. The arguments put forth on these occasions seem to embrace three propositions utterly discordant and contradictory. The first is that Riel is not morally to blame; that he was moved by highly patriotic sentiments, and that his rising was justified in all save the result. If this proposition be true, he should not only escape punishment, but he should be rewarded; and we ought to sigh over the success of General Middleton and the Volunteers. With the people who believe this proposition it is impossible to discuss. They are the avowed enemies of the country in which they live, and their advice as to how to deal with Riel should be totally disregarded.

The next argument is that Riel is not morally responsible for his acts, because he is insane. It must be evident that this line of defence is incompatible with a justification of his acts. It would be a curious conclusion, even for the attendant physician of a lunatic asylum, to arrive at, that a man was mad because he was a patriot. In a legal aspect, it is not more tenable that a man is irresponsible because he enters on an ill-considered and hopeless enterprise. If we are to adopt the doctrine that the enormity of a crime is the moral justification of its author, then we had better declare without circumlocution that *crime is a disease*. The materialist has much to say in support of such a theory. How it will be received by the moralist, there can be little doubt. If reprehensible it is not less so because covertly advanced.

The third argument is put forward by Mr. L. O. David. Its form is unexceptionable. He says, the highest penalty of the law should not be inflicted on political criminals. If not the highest then why the lowest? The extent of punishment may, to some extent, be regulated by the idea of a fitting retribution; but the main guide of the law-giver in apportioning punishment is the danger of the offence to society. Now it cannot be questioned that no offence can be considered of greater magnitude in itself, or more perilous to a nation than an armed attack on its government. The common accompaniment of such a crime is, as it was in the present