QUEEN'S BENCH DIVISION.

LONDON. March 2, 1887.

LEWIS, Appellant, and FERMOR, Respondent.

[22 Law J., N.C.]

Cruelty to Animals—Spaying Sows—12 & 13 Vict. c. 92, s. 2.

Case stated under 20 & 21 Vict. c. 43.

The respondent was summoned on May 11, 1886, before justices for the county of Sussex, by the appellant, under section 2 of 12 & 13 Vict., c. 92, for ill-treating, abusing, and torturing five sows. The operation complained of was known as "spaying," which is the cutting out the uterus and both ovaries. It was admitted to be a painful operation.

The appellant, when before the magistrates, adduced evidence that the operation, while being very painful, was unnecessary, as the flesh of the animal operated on was not improved, but rather deteriorated. It was, however, proved that the practice was usual in the district where the respondent operated on the animals in question.

The respondent did not offer any evidence, but contended that the evidence adduced by the appellant did not show that an offence had been committed within the meaning of the statute.

The justices were of opinion that the operation did cause pain, but agreed with the contention of the respondent, and dismissed the information.

Waddy, Q.C. (*Colam* with him), for the appellant, contended that there ought to be a conviction, as the evidence went to show that the operation inflicted cruel torture and was unnecessary, as not in any way benefiting man by increasing or improving the supply of food. He cited *Murphy* v. *Manning*, 46 Law J. Rep. M. C. 211.

No counsel appeared for the respondent.

The Court (Day, J., and Wills, J.) held that, as cruel torture within the section was the infliction of grievous pain without some legitimate object existing in truth or honestly believed in, and as there was no evidence to show that the respondent was not acting in an honest belief that the operation was for the benefit of man, the decision of the justices was right.

Judgment for respondent.

QUEEN'S BENCH DIVISION.

CROWN CASE RESERVED.

LONDON, March 5, 1887.

REGINA v. RILEY.

Criminal Law—Evidence—Indecent Assault—Cross-examination of Prosecutrix—Evidence of Previous Connection with Prisoner—Contradiction.

Case stated by the Chairman of Quarter Sessions for the hundred of Salford.

The prisoner, James Riley, was tried upon an indictment charging him with an assault on one A. Creswell with intent to commit a rape. The defence was that the prosecutrix had consented to what had been done to her by the prisoner. In cross-examination by the counsel for the prisoner, the prosecutrix denied that she had ever had connection with the prisoner. The Court refused to receive evidence offered by the counsel in contradiction. The prisoner was convicted, and the Court respited judgment and stated a case.

The Court (Lord Coleridge, L.C.J., Pollock, B., Stephen, J., Mathew, J., and Wills, J.) quashed the conviction, on the ground that the evidence which had been rejected was material to the point in issue and was therefore receivable.

Conviction quashed.

QUEEN'S BENCH DIVISION.

CROWN CASE RESERVED.

LONDON, March 5, 1887.

REGINA v. GIBSON.

Criminal Law—Evidence, Misreception of—Effect on Conviction.

Case stated by the Deputy-chairman of the Quarter Sessions of the West Derby hundred of the county of Lancaster.

The prisoner was tried on an indictment charging him with unlawfully and maliciously wounding one T. Simpson. During the trial evidence was tendered for the prosecution for the purpose of identification, and without objection was admitted, as to words uttered neither in the presence nor the hearing of the prisoner by a woman who was not called as a witness. In the summing-up the attention of the jury was di-