

between Mr. Lenoir on the one hand and Mr. Ritchie on the other. I think myself that it would be more convenient to allow these constitutional questions to be settled in that way, unless the actual rights of property of the two Governments are so interfered with by the action of one of them as to make it inconvenient that such action should be allowed to continue in a contestation of the rights which respective parties claim to have, under appointments conferred upon them by different Governments; when, without derogation to the exercise of administrative powers by the two Governments, the questions in dispute can be left to the decision of the tribunals which may be appealed to by those parties, I think it is more simple that they should be left to the tribunals than that we should interfere. For these reasons I do not feel called upon, this afternoon, to assert with any confidence or dogmatism what is my own individual opinion on this point. The hon. gentleman has not been able successfully to question the decision in the case of Lenoir *vs.* Ritchie. While that decision remains unreversed, it ought to be recognised by this Parliament as the law of the land. But the hon. member for Bellechasse (Mr. Amyot) has made an argument to the House in which he claims to have reached the conclusion that the decision of the highest tribunal in this country was wrong in point of law, and he asks the House this afternoon, on amendment to go into Supply, to reverse that decision by its vote. Without, therefore, saying what foundation there may be for the ingenious and able argument the hon. member has advanced, without saying that I am able to concur in any of the points which I may have omitted to answer, from forgetfulness of the hon. gentleman's argument as it fell on my ear, or from the difficulty I sometimes experienced in hearing him—without going further into the matter, I simply ask the House to decline giving an opinion on this question, seeing that it has been decided by the highest court in the country within certain lines and limits, and that, outside those lines and limits, we may leave that question to be pressed to a solution by those directly interested. I would urge on hon. members

that we should pause before undertaking to declare our opinion to-night on a difficult question of law, upon which the courts have differed, and Provincial Governments have differed, and in respect of which, when this question comes finally to be conclusively decided, we might have the mortification of seeing that we had expressed and recorded on our Journals a fallacious opinion as to what the law of the country is.

After some remarks from Mr. Mills the amendment was withdrawn.

RECOMMENDATIONS TO MERCY.

The Crewe murder case was one in which two lads were charged with the murder of their father, who had been guilty of cruelty to their mother. Richard Davies, the elder lad, was hanged April 8. The younger lad was reprieved. The *Law Journal* remarks upon the case:—

The Crewe murder trial has, as might have been expected, ended in a verdict of guilty, accompanied by a recommendation to mercy on the ground of the youth of the prisoners, who are seventeen and nineteen years of age respectively; and this recommendation, together with the ground of it, was no doubt at once 'forwarded to the proper quarter.' The recommendation to mercy is entirely outside the law of England. The judge has no judicial duties in respect of it; and, as far as we have been able to discover, text-writers are silent both as to its history and general practical effect. Sir James Stephen, however ('History of Criminal Law,' vol. ii. p. 89), makes the wise suggestion, 'that improvements might be made in the definition of the offence of murder, which would diminish the proportion of cases in which an interference with the law would be necessary,' and 'is convinced that in regard to capital cases the judge should have a discretion analogous to that which he has in cases not capital,' though he says, 'no one is more opposed than I am to the abolition of capital punishment.' In many foreign countries the question whether or not the punishment of death should be awarded in doubtful cases rests entirely and expressly with the jury. This is notoriously the case in France, Italy, and Russia, while in Geneva the law goes so