being this special provision in the Municipal Act, the procedure under the Dominion Act relating to summary convictions could not be adopted under that Act. *Quære*, whether if the Dominion Act were applicable, the Provincial Legislature would have power to authorize imprisonment with hard labour?

Held, also, that the validity of the by-law might be questioned on a motion to quash the conviction made under it.

Ferguson, Q.C., for plaintiff.
McMichael, Q.C., *contra*.

COMMON PLEAS.

January 13.

CRUICKSHANK v. CORBY.

Arbitration—Parol submission—Reception of evidence in absence of party—Setting aside award.

Where there is a written submission of existing differences to the award of an arbitrator to be appointed by a person named in the submission, and in pursuance thereof such person verbally appoints the arbitrator who enters upon the reference and makes his award,

Held, that the submission cannot be deemed to be a parol submission merely because the arbitrator is appointed verbally, and that therefore the submission could probably be made a rule of court.

The arbitrator herein received evidence in the absence of one of the parties: *Held* that the award must be set aside with costs.

Bruce (of Hamilton) for the plaintiff.
E. Martin, Q.C., for the defendant.

February 6.

PALMER v. SOLMES.

Slander—Incest—Whether criminal offence—Special damage.

In an action for oral slander the words spoken consisted in charging the plaintiff with having had incestuous intercourse with his daughter.

Held, that the offence charged did not constitute a crime cognizable in our courts, so as to be actionable without proof of special damage.

The special damage alleged was that the plaintiff had been shunned and avoided by divers persons, and had lost the society of friends and neighbours who refused to and did not associate with him as they otherwise would have done, whereby illness of body and great pain of mind and injury to his feelings had been caused, and that he had been put to and incurred great loss and expense in procuring and paying for medicines and medical attendance in and about curing himself of the said illness.

Held insufficient.

McMichael, Q. C., for plaintiff.
Clute (Belleville), for defendant.

CANADA REPORTS.

ONTARIO.

COUNTY COURT OF THE COUNTY OF MIDDLESEX.

McINTYRE v. McCORMICK.

Practice—Non-compliance with order to examine.

Held,—Defendant not bound to attend to be examined during sitting of Court at which cause entered for trial.

[London, Jan. 20, 1880.

Action for deceit; plea not guilty; issue joined; order to examine defendant, and appointment for 1st December (the first day of sittings of Court) duly served. The defendant refused to attend, although present at sitting of Court on that day. The record was entered, and the cause came on for trial on the fifth day, when the plaintiff's counsel, upon proof of above and other material facts, moved for an order to strike out the defence, on the ground that defendant had failed, without sufficient excuse, to comply with the order. This motion was refused, and counsel for defendant pressed on the case, but the plaintiff's counsel declined to proceed until after examining defendant. The learned judge directed the jury to find a verdict for defendant.

In January Term, 1880, *Bartram* obtain-