

4. *Trial—Statement of counsel—Murder trial—Reference to possible commutation of sentence.*

It is not error entitling the accused to a new trial that the Crown counsel in addressing the jury in a murder case stated, as was the law, that the Crown through the Department of Justice might reduce a sentence of death, if the accused were convicted, by substituting a term of imprisonment, where such statement was elicited by a reference made by counsel for the accused in his address to the jury to the disgrace which would fall on the family of the accused were he convicted, and where the trial judge afterwards instructed the jury that they should pay no attention to what the punishment should be.

5. *Evidence—Criminal law—Police physician questioning prisoner to determine on sanity.*

Answers to questions put to a prisoner in custody by a police physician who put the questions merely for the purpose of forming an opinion upon his mental condition are admissible to prove him sane where they were not in the nature of admissions or confessions as regards the charge against him, although no warning was given the accused that what he might say could be used in evidence against him.

L. F. Clarry, Deputy Attorney-General, and *W. A. Begg*, K.C., for the Crown. *A. A. McGillivray*, K.C., and *A. Barron*, for the defendant.

Province of Manitoba.

COURT OF APPEAL.

Howell, C.J.M., Richards, Perdue
and Cameron, J.J.A.]

[16 D.L.R. 406.

WEILGOSZ v. MCGREGOR.

Evidence—Statutory presumption—Automobile accident—Negligence.

Section 63 of the Motor Vehicles Act, R.S.M. 1913, c. 131, places the onus of proof upon the automobile owner or driver in respect of damage done by collision with a bicycle; and the effect