The case so reserved was as follows :—

"The prisoner, Edward Coote, was indicted or arson of a warehouse in his occupation, and belonging to Alexander Roy.

"The indictment contained four counts,—The first with intent to defraud the Scottish Provincial Insurance Company ; second, to defraud the Royal Insurance Company ; the third to defraud generally ; and the fourth to injure generally ; upon his plea of not guilty, he was tried before the Court of Queen's Bench, at the criminal term of the said court, holden by me at Montreal, in this present month, before a competent jury empannelled in the usual manner, and, after evidence adduced by the Crown and by the prisoner, was found guilty, the jury returning a general verdict of guilty.

"In the course of the adduction of the evidence for the Crown, two depositions made and sworn to by the prisoner, with his signature subscribed to each, taken by the Fire Commissioners at their investigation into the cause and origin of the fire at his warehouse, before any charge or accusation against him or any other person had been made, were produced in evidence against him, and which, after having been duly proved, were submitted to the jury as evidence against him, after the objection previously made by the prisoner to their production in evidence, and after his said objection had been overruled by me—after the conviction of the prisoner, and before sentence was pronounced by me thereon, he moved the court by two motions filed in court in terms following :"

The case then set out the two motions, of which the first is immaterial, as Badgley, J., rejected it, and reserved no question respecting it ; the second was in the following terms : -

"Motion on behalf of the said Edward Coote, that judgment upon the said indictment, and upon a verdict of guilty thereon, rendered against him, be arrested, and that the said verdict be quashed and set aside, and the said defendant, to wit the said Edward Coote, be relieved therefrom, for, among others, the following reasons :"

Twenty-one reasons were then set out, the only ones material to the present appeal being in effect that the two depositions were inadmissible in evidence, because the said Fire Commissioners, before whom they were taken, had no authority to administer an oath, or take such depositions, and such depositions were not admissible as statements made by the prisoner, because they were not made freely and voluntarily and without compulsion or fear, and without the obligation of an oath.

The case then stated the rejection of the first motion, and that he, the said judge, though himself considering the reasons given insufficient to support the second motion, yet, as doubts might be held by the Court of Queen's Bench as to the legal production of the said depositions, reserved it, and held it over for decision with reference to the admission of the said despositions by the Court of Queen's Bench, appeal side.

The Fire Commissioners, before whom the depositions were taken, are appointed under the provisions of two statutes of the Provincial Legislature of Quebec (31 Vict. c. 32, and 32 Vict. c. 29), under which Acts they are empowered to investigate the origin of any fires occurring in the cities of Quebec and Montreal, to compel the attendance of witnesses and examine them on oath, and to commit to prison any witnesses refusing to answer without just cause.

The criminal law of England was introduced into Lower Canada at the time of the cession to the English, A. D. 1763, and the criminal law of England of that date still continues in force in the province of Quebec, Canada, except as it has been altered by Canadian statutes or imperial statutes applicable to Canada.

Previous to the year 1869 a statutable provision (Consolidated Statutes of Lower Canada, c. 77 s. 63) was in force, by which a power was vested in the Court of Queen's Bench, appeal side, if at the hearing of a case reserved they were of opinion that the conviction was bad, for some cause not depending on the merits of the case, to declare the same by its judgment, and direct that the party convicted should be tried again as if no trial had been had in such case ; but by a subsequent statute (32 & 33 Vict. c. 29 s. 80), passed by the Legislature of the Dominion of Canada shortly after the establishment of that confederation, for the purpose of assimilating the criminal procedure throughout the various provinces of the Dominion, that section was expressly repealed, and there were at the time of the respondent's trial statutable provisions giving right to a new trial in criminal matters, or regulating motions in arrest of judgment in criminal proceedings in force in the Province of Quebec, Canada.

On the 15th Dec. 1871, the reserved case came on for argument in ths Court of Queen's Bench, appeal side, before Duval, C. J., and Caron, Drummond, Badgley, and Monk, JJ., and on the 15th March, 1872, the court gave judgment in the following terms : "After hearing counsel as well on behalf of the prisoner as for the