

The Legal News.

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On another page will be found the text of the bill to constitute a special commission in the matter of the charges against Parnellites. The precedent is of considerable interest, and will probably be of importance hereafter. The *Law Journal* (London), which takes exception to the method of inquiry, says: "The Special Commission Bill now before Parliament proposes a proceeding not only unprecedented, but unjustified on constitutional principles. On occasions of extraordinary emergency, the special remedies allowed by the Constitution are a bill of attainder or an impeachment. Both assume a charge of a high crime or misdemeanour, but the first is the joint act of both Houses of Parliament pronouncing on the charge in its legislative capacity, while in the second the House of Commons is the accuser and the House of Lords acts as the judge. Neither has effect unless the charge is proved to the satisfaction of the tribunal invoked, and both result in heavy penalties if the charge be sustained. In no one of these essential respects does the bill in question answer the constitutional test. For a charge of a crime in law, by a constitutionally responsible person, are substituted "charges and allegations" made by the defendants in the course of proceedings in an action against a newspaper proprietor and printer sued for libel. Was there ever so vague a prelude to a penal proceeding? The commissioners are to "inquire and report." They will first have to inquire what to inquire by a careful extraction from the short-hand notes of the trial of *O'Donnell v. Walter* of every conceivable charge by the defendants contained in it against every single person mentioned. Having achieved this task, which will not be the lighter by the encouragement which the conspicuous figure of Mr. O'Donnell in the proceedings gives to all the associates, past or present, of those accused to clear their character, the commissioners will have to "report." What are they to report, and to whom? Assuming

that they report to a Secretary of State, they must report on every charge brought and on every person accused or who thinks himself accused. Suppose they report some one of being accessory to a murder, what follows? Nothing. If he has made a clean breast of it he is indemnified absolutely from further proceedings. If he has not he must be tried over again by a jury which will either pay so much deference to the judges' report that there will be no trial at all or will overrule the decision of three of the Queen's judges. The bill, in fact, fails from attempting to adapt a procedure useful for the conviction of peccant boroughs who can be punished by disfranchisement, but totally out of place as machinery for a State trial." The same journal further observes that the imposition on judges not in the course of their ordinary duties of the burden of a trial without a cause of action, without pleadings, without parties, and, above all, on a matter that acutely concerns partisan politics, is not the least inexpedient part of this bill. The late Chief Justice Cockburn protested against the judges being employed to try election petitions. The late Chief Justice Waite declined to take part in the Tilden Hayes Commission of 1876. It is no part of the business of judges to try persons they cannot sentence, or to do for Parliament and the Government the work which belongs to a criminal investigation department. To call three judges away from their ordinary duties for an indefinite period under this bill gives a prospect of serious delay in the Courts of Justice, especially when we read the clause that "any person examined as a witness may be cross-examined on behalf of any other person appearing before the commissioners."

An interesting question of accident insurance was presented in the case of *Travellers' Insurance Co. v. McConkey*, before the United States Supreme Court, May 14. A policy of accident insurance provided that it should not extend to any case of death or personal injury, unless it was established by direct and positive evidence that such death or personal injury was caused by external violence and accidental means. The insured was found dead with a pistol bullet through