

## The Legal News.

VOL. III. JANUARY 10, 1880. No. 2.

### RESERVED CASES.

In the last moments of the December term of the Queen's Bench, Appeal Side, a case came up, which is deserving of notice because we are told that the same difficulty has occurred more than once before. A question had been reserved by a Judge holding a criminal court, but the statement itself, which had been prepared and signed by the learned Judge, showed that there had been no trial and no conviction. Now, the terms of the Statute are clear: "And in order to provide means of deciding any difficult question of law arising at criminal trials—When any person *has been convicted* of any treason, felony or misdemeanor, at any criminal term, &c., the court before which the case has been tried, may in its discretion, reserve any question of law which has arisen on the trial," &c. Where there has been no conviction, therefore, the Statute gives the court no power to reserve a question, and no question reserved otherwise than in conformity to the statute can be taken into consideration by the Court of Queen's Bench, Appeal Side.

### DECISIONS BY A DIVIDED COURT.

The *Albany Law Journal*, in reviewing the system followed in the compilation of the "American Reports," says: "No case is embraced unless it is likely to be of authority in its own State. Therefore most cases pronounced by a divided court, or at least where there is a considerable division, are eschewed. All 'one judge' cases are avoided, *i. e.*, those pronounced by a majority of one, as they are never likely to have much weight at home, much less abroad." One cannot help thinking that a rule like this would narrow down very considerably the number of decisions embraced in any future compilation of the judgments of our Appeal Court. The fact is unmistakeable that it is in important cases that dissent most frequently occurs, and if one had time to go over the decisions for ten years back, it would be startling to discover the small proportion of such cases

which have been disposed of with entire unanimity. This journal has already recorded its view against the suppression of dissenting opinions in the reports (see vol. 1, pp. 73, 85); but this does not interfere with an expression of regret that Courts of Appeal should be able to arrive at a unanimous conclusion upon so few of the great questions which are debated before them.

### CERTIORARI.

The Narbonne case involves a point of much interest, namely, whether it is an indictable offence for a man in Montreal to write a letter addressed to persons doing business in New York, inciting to the commission of a crime in the United States. Narbonne is charged with having, at Montreal, incited two persons named Schlegel and Lee, doing business in New York, to forge Canada postage stamps. On the application for habeas corpus, however, the only point which the court had to decide was whether a certiorari can be issued to bring up the depositions taken before the magistrate, with a view to enable the court to see whether the commitment conforms to the evidence. This application the court refused.

### DOMINION CONTROVERTED ELECTIONS ACT.

The Judicial Committee of the Privy Council have refused leave to appeal in the case of *Valin v. Langlois*, in which the constitutionality of the Dominion Controverted Elections Act of 1874 was affirmed by the Supreme Court of Canada. (See 2 Legal News, pp. 361, 364, 373, 379). In view of the almost unanimous opinion of the courts of appellate jurisdiction in Canada on the question, the propriety of their lordships' decision can hardly be questioned. The following letter, which has been received from petitioner's London solicitors, shows that the appeal, in fact, would have been useless, as their lordships concur in the decision of the Supreme Court:—

VALIN V. LANGLOIS.

4 GREAT WINCHESTER STREET,  
LONDON, E.C. Dec. 15, 1879.

DEAR SIR,—The petition for special leave to appeal came on for hearing on Saturday, and