

The Legal News.

VOL. XIII. JUNE 28, 1890. No. 26.

The announcement has been made that the person who attempted to murder County Judge Bristowe, at Nottingham station, some time ago, has committed suicide. It is curious that the only successful attempt in England to murder a judicial officer ended in the same way. In *Monro's Acta Cancellaria* there is to be found (No. clix., p. 236) a certificate, dated Nov. 4, 1616, made in the case of *Bartram v. Symcon*, by Sir John Tyndal and Sir John Amye, with an endorsement thereon respecting the murder of Sir John Tyndal, who was a Master in Chancery. The endorsement says: "For making this report Sir John Tyndal was killed by Bartram, the plaintiff, 12th November, 1616." Bartram shot him dead in Lincoln's Inn, and afterwards escaped execution by hanging himself in prison. The assailant of Mr. Justice Field, of the United States Supreme Court, was shot dead in the act of committing the assault. The assailant of Chief Justice Austin, of the Bahamas, received thirty lashes. Examples of attacks on judges are rare, and the assailants seem to fare badly; so it may be hoped that such assaults will wholly cease.

The London *Law Journal* notes the fact that the question of capital punishment has been twice carefully considered in England within the last fifty years; first, by a select committee of the House of Lords in 1847, which reported that "almost all witnesses and all authorities agree in opinion that for offences of the gravest kind the punishment of death ought to be retained;" secondly, in 1865-66, by a royal commission presided over by the Duke of Richmond, which, though "forbearing to enter into the abstract question of the expediency of abolishing or maintaining capital punishment, on which subject differences existed between them," recommended "that the punishment of death be retained for all murders deliberately committed with express malice aforethought, such

malice to be found as a fact by the jury," and also for all murders committed in the perpetration of arson, burglary, and other serious felonies. Four out of the twelve commissioners (Dr. Lushington, Mr. Bright, Mr. Neate and Mr. Ewart) signed a declaration to the effect that "capital punishment might safely and with advantage to the community be abolished," while a fifth, Mr. Justice O'Hagan, would have signed it but that he doubted whether public opinion in the country was yet ripe for the acceptance of such a change. Amongst the witnesses examined (who in point of number were evenly balanced), Lord Bramwell, Colonel Henderson, Sir George Grey and Mr. Davis, the ordinary of Newgate, were of opinion that capital punishment has a strongly deterrent effect, while Mr. Justice Denman thought that, on the whole, more was done by capital punishment *as it then existed* (i.e., before the abolition of public executions) to induce murders than to prevent them; the late Chief Baron Kelly thought that the most severe secondary punishment that could be devised would be equally deterrent; and Lord S. G. Osborne believed that where murders proceed from strong provocation, "no fear of death, not even if the rack should precede it, would have power to deter it." Mr. Davis made the important statement that, in his opinion, warders would be in danger, in watching over criminals under penal servitude for life, if capital punishment were abolished.

COUR SUPÉRIEURE.

DIST. DE SAGUENAY, 13 NOV. 1889.

Coram ROUTHIER, J.

ROY V. DUBERGER, et FILION, Tiers-opposant.
Séparation de biens — Assignation — Tierce-opposition.

JUGÉ:—1o. *Que le reçu copie donné par le défendeur pour tenir lieu de la signification de l'action, et dispensant la demanderesse des formalités de l'assignation, et le défaut de rapporter l'action au jour fixé pour le rapport, rendent irrégulier et nul, le jugement prononçant la séparation de biens ainsi que toutes les procédures subséquentes s'y rapportant.*