there are very few convicts satisfied with their verdict.

The worst among them will acknowledge that they have committed crimes indeed, but not the one for which they are sentenced, or they will insist upon the falsehood of a great deal of the testimony on which they are convicted, or the illegality of the verdict.

The objection to the non-unanimity principle is not founded on any physcologic ground. How much stronger is the fact that all of us have to abide by the decision of the majority in the most delicate cases, when Supreme Courts decide constitutional questions, and we do not only know that there has been no unanimity in the court, but when we actually receive the *opinions* of the minority, and their whole arguments, which always seem the better ones to many, sometimes to a majority of the people! Ought we to abolish, then, the publication of the fact that a majority of the judges only and not the totality of them agreed with the decision? By no means. Daniel Webster said in my presence that the study of the Protests in the House of Lords (having been published in a separate volume) was to him the most instructive reading on constitutional law and history. May we not say something similar concerning many opinions of the minority of our supreme benches?

By the adoption of the rule which I have proposed, the great principle that no man's life, liberty, or property shall be jeoparded twice by trials in the courts of justice, would become a reality. At least, the contrary would become a rare exception. Why do all our constitutions lay down the principle that no one shall be tried twice for the same offence? Because it is one of the means by which despotic governments harass a citizen under disfavor, to try him over and over again; and because civil liberty demands that a man shall not be put twice to the vexation, expense, and anxiety for the same imputed offence. Now, the law says, if the jury finds no verdict it is no trial, and the indicted person may be tried over again. In reality, however, it is tantamount to repeated trial, when a person undergoes the trial, less only the verdict, and when he remains unprotected against most of the evils and dangers against which the Bill of Rights or Constitution intended to secure him This point, namely, the making of the noble principle in our constitution a reality and positive actuality, seems to me a most important motive why we should adopt the measure which I respectfully, but very urgently, recommend to the Convention. So long as we retain the unanimity principle, so long shall we necessarily have what virtually are repeated trials for the same offence.

In legislation, in politics, in all organizations, the unanimity principle savors of barbarism, or indicates at least a lack of development. The United States of the Netherlands could pass no law of importance, except by the unanimous consent of the States General. A single voice in the ancient Polish Diet could veto a measure. Does not perhaps something of this sort apply to our jury unanimity?

Whether it be so or not, I for one am convinced that we ought to adopt the other rule in order to give to our verdicts the character of perfect truthfulness, and to prevent the frequent failures of finding a verdict at all.—*American Law Register.*

UPPER CANADA REPORTS.

COMMON LAW CHAMBERS.

(Reported by Henry O'Brien, Esq., *Barrister-at-Law, Reporter in Practice Court and Chambers.)*

McGuffin v. Cline.

Setting aside order for arrest made by County Court Judge—Grounds for interference—Waiver—Order for too great an amount.

There is a broad distinction, on an application to set aside an order for an arrest, between an order based on affidavits deficient in statutable requirements and those containing statements from which different conclusions might fairly be drawn by different judges.

In a case coming under the latter head, a Judge in Chambers declined to set aside an order for arrest by a County Court Judge of competent authority, preferring to leave it to the full Court.

But as the order was granted for a sum greater than that warranted by the allegation in the affidavit, the amount for which defendant was held to bail was directed to be reduced to the correct sum, without setting aside the order.

The defendant does not, by putting in special bail, waive objections not of a technical nature.

(Chambers, September 13, 1867.)

On the 25th June, 1867, the defendant was arrested on a capias *ad respondendum* for $700. The writ was obtained on an order of the County Judge of Halton, made the same day, founded on an affidavit of plaintiff, setting forth a suit and a reference to arbitration, and an award by the arbitrator directing that defendant should pay plaintiff $500, and that defendant was justly indebted to plaintiff in that sum, and also in $80, or thereabouts, for costs of reference and award, also directed to be paid to him by the award.

The affidavit proceeded to state the grounds on which plaintiff sought to shew that the defendant was about to leave the country, &c.

Defendant was arrested on the same day, on the writ for $700

On 2nd July, a summons was obtained in Chambers, with stay of proceedings, to set aside the judge's order and the arrest, &c., on the grounds that the affidavit was insufficient; that the reasons assigned for plaintiff's belief were insufficient, untrue, and unfounded, &c.; that no copy of the award was served, or demand made; that the order was for $700, though only $580 sworn to, and because defendant was not about to quit Canada, &c.; or why the amount for which defendant is held to bail should not be reduced to $500.

On 4th July, the defendant's attorney in Milton, in ignorance of the issuing of the summons and stay of proceedings, put in special bail for defendant.

Many affidavits were filed on the hearing, on either side.