

## TRANSFERRED MALICE.

for accumulation, authorized the application of £300 a year for his maintenance. On his coming of age the present application was made to the court to continue the allowance to enable him to adopt the profession of a solicitor, but Pearson, J., refused to make any further order, considering he was bound to "allow the testator's folly to prevail."

## SELECTIONS.

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In *Regina v. Latimer*, noted in this week's Notes of Cases, the Crown Court decide that if a man strike at another and wound a woman he is guilty of unlawful and malicious wounding within the statute 24 & 25 Vict., c. 100, s. 20. The Lord Chief Justice was of opinion that *Rex v. Hunt*, 1 M. C. C. 93, a decision of all the judges briefly reported, virtually decided the question, but a close examination of that case shows that it was little in point. The indictment was not for maliciously wounding, but for feloniously cutting. No one doubts that if a man meaning murder kills the wrong man he is guilty of murder, and so of a felonious assault, but the law of murder depends on the common law. The question was whether the word "maliciously" in a statute is satisfied by a malice which had a different object for the blow. In *Regina v. Pembrilton*, 43 Law J. Rep. M. C. 91, it was held that to aim at a man and to smash a window is not malicious; now it is held that to aim at a man and wound a woman is malicious. The distinction is fine, but it is probably sound, and ingenuity might suggest many similar complications of motive and act which chance-medley might bring about. For example, is it malicious to aim at a horse and wound the rider? We suppose it is, on the authority of the present decision, although the poor horse, hit in mistake for the rider, would probably be no better off than the plate-glass. The distinction is perhaps unsound in strict logic, but the fact is that the law very properly takes care of human life and limb, and when they are in danger ignores meta-

physics. In the reign of William Rufus, we believe, the doctrine was carried further, and it was contended that when the man was a king it was treason to kill him in shooting at a stag, but as Coke gravely points out, Tyrrell was no poacher, but shot at a stag in the royal forest at the king's command, and the king's death was legally an accident. Personally Tyrrell was not, we believe, confident of the soundness of his legal position, and was called away to the Crusades. The case suggests another complication. A man meaning to kill a fellow-subject kills the king. Is that treason, or murder, or neither? We commend this conundrum to debating clubs.—*Law Journal*.

The Court for the Consideration of Crown Cases Reserved last Saturday expressed their gratification at being able to deliver a judgment upon a question of considerable importance. Not because they were thereby laying down any new principles with regard to the criminal law, for, as they said, the case before them was clear, but for the decision of the court upon a case which, until examined, was apparently on all-fours with the case upon which they were called upon to decide, and which, to a certain extent, placed a qualification upon the application of the well-known doctrine that where a person in the execution of an unlawful act causes damage or injury, if such damage or injury was the natural consequence of the unlawful act, the law presumes malice upon the part of the person engaged in the unlawful act. The case before the court on Saturday was one in which a man named Latimer had been convicted upon an indictment for unlawfully and maliciously wounding Ellen Rolston under the following circumstances: Latimer and a man named Chapple had been quarrelling in a room, and Latimer had left the room and returned with a belt in his hand. In passing hastily through the room Latimer aimed a blow with the belt at Chapple, and struck him slightly, but the belt bounded off and struck Ellen Rolston, who was standing talking to Chapple, and wounded her severely. These being the facts, the learned Recorder, before whom the case was tried, left the following questions to the jury:—"1. Was the blow struck at Chapple in self-defence to get through the room, or unlawful and mali-