

THE WHALEN TRIAL.

DIARY FOR SEPTEMBER.

2. Wed.. Last day for notice of re-hearing.
6. SUN.. 13th Sunday after Trinity.
7. Mon.. Recorder's Court sits.
8. Tues.. Quarter Sessions and County Court sits in each County.
10. Thurs Re-hearing Term commences.
13. SUN.. 14th Sunday after Trinity.
20. SUN.. 15th Sunday after Trinity.
27. SUN.. 16th Sunday after Trinity.
29. Tues.. St. Michael.
30. Wed.. Appeals from Chancery Chambers.

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THE WHALEN TRIAL.

This most engrossing case is so familiar to every one in the Dominion that it would be but a waste of time to refer to it at length. There are, however, some important and suggestive features in it which demand attention.

It is in the first place a proud thing to feel that the reliance of our people in the strength and majesty of the law is such, that they are content to leave to the even course of that law the punishment of a dastardly crime against it; and not only a crime against the law as such, but a crime revolting to the better instincts of our nature, and, from attendant circumstances, rousing a bitter feeling of indignation and horror, a feeling which would naturally find vent in a desire for speedy punishment or perhaps vengeance on the perpetrator. But it was not thought necessary even to accelerate the sittings of the ordinary tribunals, much less to do what had a strong shew of necessity owing to the peculiarities of the case,—the appointment of a special commission for the trial of the offender. We have seen under somewhat similar circumstances in our near neighbourhood the bad policy and the evil effects, to use no harsher words, of allowing the passions of the hour, just and righteous enough within proper limits, to influence the due and orderly administration of the law.

It is of less importance (except for the effect produced in justifying the confidence of the public, and so sustaining the feeling we have alluded to) that the result has been to discover and legally fasten the crime upon the real criminal, for it can scarcely be questioned by any sane man, nor is it doubted by any person, that we have secured the per-

petrator of the deed in the individual who has been found guilty and sentenced to suffer the extreme penalty of the law on the 10th day of December next. And in connection with this, we may remark, that one of the strongest features of the case against the prisoner, though one to which we have only seen a passing allusion, is, that no shadow of suspicion appears to have fallen upon any person other than the convicted prisoner. From first to last every circumstance has told against him, and against no one else, nor has there been any suggestion by the prisoner or any one else that any other person known or unknown might have committed the murder.

To those who consider that the guilt of the prisoner was proved on the trial beyond all reasonable doubt, it may seem a pity that there is still a possibility that he may yet go unpunished, for it cannot be denied that on a new trial there might and probably would be a difficulty in producing all the evidence that the Crown had at the last trial, and that it would give the unscrupulous friends of the prisoner an opportunity of manufacturing evidence difficult to rebut, or of buying up or making away with the witnesses on whose evidence the verdict lately given was founded. We do not at present desire to discuss the probabilities of a new trial, the only possible ground for which is of course the ruling, that a prisoner must exhaust his peremptory challenges before he challenges for cause,—though we cannot but regret that, apparently in this single matter, the counsel for the Crown failed in that tact which, with this exception, he evinced in the conduct of the case throughout. The exigencies of the prosecution did not require a strict enforcement of the rule of law contended for by the Crown, if such rule there be, for even an indulgence to the prisoner in this matter would not, in all human probability, have affected the result, and no doubtful question would then have arisen.

But supposing the objection to be sustained, and the claims of justice delayed or defeated, though we may regret that in this particular case the example required for such evildoers may not be made for the prevention of similar crimes, we must not forget that the objection is intimately connected with one of the safeguards provided by that same law that overtook the criminal, for the protection of those who might be falsely accused.