all events, it shows an honest detestation of crime :—

"Sir,—Toward the close of the excellent article on the Taylor trial in your issue for October 31, you say that people never will be, nor ought to be, persuaded 'to treat criminals simply as vermin which they destroy, and not as men who are to be punished.' Certainly not, sir! Whoever talked or thought of regarding criminals 'simply' as anything (or innocent people either, if there be any)? But regarding criminals complexly, and accurately, they are partly men, partly vermin; what is human in them you must punish—what is vermicular, abolish. Anything between—if you can find it—I wish you joy of and hope you may be able to preserve it to society. Insane persons, horses, dogs or cats, become vermin when they become dangerous. I am sorry for darling Fido, but there is no question about what is to become of him. Yet, I assure you, sir, insanity is a tender point with me. One of my best friends has just gone mad, and all the rest say I am mad myself. But if ever I murder anybody—and, indeed, there are numbers of people I would like to murder—I won't say that I ought to be hanged; for I think that nobody but a bishop or a bank director can ever be rogue enough to deserve hanging; but I particularly, and with all that is left me of what I imagine to be sound mind, request that I may be immediately shot."

PROCEDURE IN IMPEACHING RETURN TO MANDAMUS NISI.

NAPANEE v. NAPANEE.

The proper procedure to follow, if it is desired to impeach the return made to a mandamus nisi is a subject of some little complexity, and we propose briefly to discuss the matter. Formerly, if the return were good upon the face of it, but false in fact, the prosecutor had no means of traversing it, *and no remedy at all*, except by bringing an action on the case against the defendants for their false return; but if he succeeded in obtaining a verdict and judgment in that action, the Court then awarded a peremptory mandamus. But by Stat. 9 Anne. c. 20, sec. 2 (which related only to municipal offices and officers; but which has since been extended to writs of mandamus in all cases,—in England by Imp. 1 Wm. IV, c. 21, sect. 3, and here by 28 Vict. c. 18, sect. 3, now R. S. O. c. 52, sect. 11)—it is enacted that where a return has been made to a writ of mandamus, it shall be lawful for the prosecutor to plead to or traverse all or any of the material facts contained therein. The effect of the above mentioned more recent statutes has been to make this applicable to all cases, although an action for a false return might not lie at common law. (*R.* v. *Fall*, 1. Ad. & El. N. C. 647; Archbold, Cr. Pr., p. 301. Ed. 1844.)

On the other hand, if the prosecutor wished to object to the return for any inconsistency or other defect *appearing upon the face of it*, he used formerly to move for a concilium, and have the matter set down in the Crown paper for argument, when the Court decided upon it; and if they held the return to be bad, they ordered it to be quashed, and awarded a peremptory mandamus. In very plain cases they sometimes decided as to the sufficiency of the return upon a motion to quash it, (*R.* v. *St. Catharines' Dock Co.*, 4 B. & Ad. 360), but as the decision in these judgments was final, and no writ of error lay upon it, the practice was unsatisfactory. To remedy this it was enacted in England by Imp. 6 and 7 Vict., c. 67, sect. 1, and here by 28 Vict., c. 18, section 7, (now R. S. O., c. 52., sect. 15), that in all cases in which the prosecutor of a writ of mandamus wishes to object to the validity of any return made thereto,—"he shall do so by way of demurrer to the same in such and the like manner as is now practiced and used in the said Courts respectively in personal actions, &c." (Archb. Cr. Pr. p. 298). For, as recited in Imp. 6–7 Vict. c. 67, by neither of the former statutes was any power given to the prosecutor to *demur* to the return, so that the decision of the Court as to its validity could be reviewed by a Court of Error. It