affectionis; and (2) cases of articles of which one maker's make is as good as another's and which have no special repute, or name, or other distinction.

The next case of *Bradford* v. *Symondson*, (p. 456), is a curious one. The defendant, who had insured a cargo by a certain vessel, lost or not lost, for a certain voyage, believing such vessel to be overdue, effected a policy of re-insurance with the plaintiff on the same cargo and risk. Before the policy of re-insurance had been effected, however, the vessel and cargo had in fact arrived safely at the port of destination; but this was not known to either the plaintiff or defendant at the time the policy was effected; and all three judges held that the policy had attached, and that therefore the plaintiff was entitled to the premium at which it had been effected. Brett, L. J., with whom the other judges concurred, declares his opinion (p. 462), that the fact that the question of whether there was a loss or not, was determined before the making of the policy, is no objection to the policy. He points out that all the text-books support this view, and incidentally observes that "of all the great text authorities upon insurance law, Phillips is the one most to be considered."

The cases decided in the October number of the Chancery Division will be reviewed in our next number.

We are compelled from want of space, notwithstanding our fortnightly issue, to hold over much interesting matter, including some cases from the country, and a letter from a subscriber as to practice in County Courts in reference to the examination of parties.

NOTES OF CASES.

PUBLISHED IN ADVANCE BY ORDER OF THE LAW SOCIETY.

QUEEN'S BENCH DIVISION.

Osler, J.] [Oct. 18.

REGINA v. WASHINGTON.

Conviction—Appeal—Jury—Further evidence—Irregularity.

A jury may be granted or refused by the Sessions, on appeal from a magistrate's conviction for violation of municipal by-law.

In this case the appellant offered evidence not before the magistrate. This was rejected by the Sessions, and the conviction amended and affirmed, as and for breach of municipal by-law.

Held, that there was the right to have the evidence taken, and having been denied it, the order of the Sessions was quashed.

Imprisonment, with hard labour, on non-payment of fine imposed, having been awarded with costs, payable to magistrate or prosecutor the sentence was held bad.

Bethune, Q. C., for conviction.

Murphy and *Fullerton*, contra.

Osler, J.] [Oct. 18.

MCEWAN v. MCLEOD.

Consent—Reference—Award—Contract—Measure of damages.

An award made under order of reference by consent may be appealed from.

Defendant's craft was, on 3rd Oct., hired by plaintiff for carriage of salt at so much per ton, the vessel to take in cargo and convey within reasonable time. Some days after defendant wired that the vessel could not go, and to know if a barge would answer. Plaintiff could at this time have got a vessel at the same rate, but waited for defendent's, which got freighted on 25th Nov. The master, however, apprehending bad weather, would not put out, and another vessel could not be got. Plaintiff then disposed of the salt, despatched part by railroad, settling with the consignee the difference