

Held, that the accused was entitled to ask for a jury under sec. 67, N.W.T. Act, as the offence is not one comprised in the list of cases mentioned in sec. 66, N.W.T. Act, not being larceny either at common law or under the Larceny Act, nor declared to be larceny under the Act originally creating the offence.

Regina v. Allen, decided by Rouleau, J., on Nov. 16, 1895, dissented from. *J. R. Costigan*, Q.C., and *P. J. Nolan*, for the accused.

A. L. Sifton, Crown Prosecutor, for the Crown.

BOOK REVIEWS.

A Preliminary Treatise on Evidence at the Common Law; Part I, Development of Trial by Jury, by JAMES BRADLEY THAYER, Weld Professor of Law, Harvard University. Boston, Little, Brown & Co., 1896.

This book is a very interesting beginning of what will doubtless be a very valuable addition to legal literature. The writer is singularly lucid in his style and his treatment of the subject is of a masterly character. The author says that his first intention was to write a treatise on the law of evidence for practical use, but he "soon found that it was impossible to write anything which would satisfy his own conceptions of what was needed without a careful examination of the older laws of trial, and a critical study of the various related topics crudely developed and half understood."

His first chapter takes up the older modes of trial; chapters 2, 3, and 4 treat of trial by jury and its development under the Frankish and Norman inquisitio, its transference to England, and its history, application and extension down to the present time.

If the rest of the work is at all comparable to Part I, we should not be surprised to see this book of Mr. Thayer's brought into our curriculum. As an interesting and instructive introduction to this branch of the law, we know nothing better.

FLOTSAM AND JETSAM

RULE IN SHELLEY'S CASE.—The Rule in Shelley's Case stands indicted before the Pennsylvania Bar Association. In a paper read at their recent convention the reasons for the abolition of this time-honored Rule are thus summarized: "In wills the cardinal rule of construction is that the intent of the testator is to be gathered from the four corners of the will, taken as a whole. All technical rules of construction yield to the expressed intention of the testator, if such intent be lawful. The Rule in Shelley's Case is the one exception that strikes down the plain intent of the testator. This is so because it is a rule of law and not of construction; and if the language of the will brings it within the rule, no contrary intent of the testator, however plain and emphatic, will defeat the operation of the rule. The rule leads to hair splitting decisions and distinctions over the words 'issue' and 'children' in many wills. The rule is absurd and vicious."