did tell the jury how the law stood, the court could hardly tell the jury that the legislature had been too wise to pass Mr. Cameron's bill, and that it was not law. Again, suppose the defence, presuming on the ignorance of the jury, said the prisoner's mouth was shut, is silence still to be imposed on the prosecution? And is the court to appear to acquiesce in the mis-statement? Besides, the jury might know the law, and then the silence of the prosecution and of the court wonld not get the prisoner out of the difficulty Mr. Cameron's reform had created for him.

The strength of the reasons urged in support of the bill may be gathered from one advanced on the previous debate. It was said the principle of the law was admitted already in cases of assault, and therefore it should not be refused in murder. It must strike every one who thinks, that the greater the forfeit the greater will be the temptation to commit perjury, and therefore this reason is fallacious. In addition to this, it is hardly compatible with the argument used when the law was changed before as regards assault. Then we were told that the change could do no great harm in cases of assault, which were little more than civil proceedings.

Your obedient servant,

T. K. RAMSAY.

Montreal, March 12, 1885.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

MONTREAL, March 4, 1885.

Before RAMSAY, J.

REGINA v. TASSÉ.

Libel—Criminal Prosecution—Evidence—Guilty knowledge—Journalist—Privilege.

RAMSAY, J. The indictment is drawn under Section 2 of the act respecting the crime of libel (37 Vic., c. 38),—that is to say that the libel was published by defendant, knowing the same to be false.

The defendant pleaded the general issue and a special plea of justification.

The prosecution closed its evidence and the defendant opposed the case going to the jury for two reasons: first, that the indictment was under the second section of the act, and that there was no evidence of guilty knowledge; second, that the communication was privileged on the face of it, and no evidence of express malice to destroy the privilege, and that as privilege was matter of law, the jury should be charged to acquit.

With regard to the first of these points, it seems to me to be a little premature to bring it up at this moment, and perhaps it may never arise in this case. It will be observed that the alleged libel consists in an appreciation of facts with which the writer, whoever he was, pretended to be familiar, and consequently, it can hardly be said there is nothing in the way of evidence to show that the writer knew the nature of his appreciation, that is whether false or true. I am not however prepared to say with the prosecution, that evidence of malice sustains the allegation of guilty knowledge. The converse is true; guilty knowledge implies malice. But in any case I am not inclined to think that, even if guilty knowledge were not proved, it would be the duty of the Court to instruct the jury that the defendant was entitled to an acquittal. 1 Taylor, § 214.

On the second point I am against the defendant. Privilege justifies the publication of incriminatory matter which, under other circumstances, would be slanderous or libellous; but the fact that a person occupies a public position does not confer on his neighbour the privilege of making an injurious attack upon his character. Nor can it be contended that the writer in a newspaper stands on a more favorable footing than any one else. The journalist is only a self-constituted critic, and the difference between him and other critics is, that he should be held to a greater degree of responsibility, because his opportunities to do injury are greater.

Had there been a privilege such as that contended for, the 6 and 7 Vic., c. 96, would have been unnecessary. However, that statute did not extend the law of privileged communication. It created a new defence to libel on certain conditions. It permitted the defendant to plead, together with or without the plea of "not guilty," the special plea that the matter complained of was true, and that it was for the public benefit that the matters