

such ruling been applied to a substance which in itself is a poison, even though some of the most deadly poisons are commonly administered, in infinitesimal doses, for the healing of disease, or otherwise benefiting those in ill-health. To the contrary is the opinion expressed by Field, J., in . . . The Queen v. Cramp, 5 Q.B.D. 307, in these words: "If the thing administered is a recognised poison, the offence may be committed though the quantity given is so small as to be incapable of doing harm;" and this agrees with the views of that eminent lawyer Dr. Graves, which will be found expressed in a foot-note at p. 131 of Russell on Crimes, 1st Can. ed.

In my opinion, the requirements of the enactment in question are satisfied if the substance administered or supplied be a drug: if not a drug, it must, of course, be proved to be a noxious thing, and, in my opinion, noxious in the quantity administered or to be taken.

In this case there was reasonable evidence that the substance in question was not only a drug—a drug commonly called yellow jasmine, technically gelsemium—but also a poison: in its alkaloid—which was found in the analysis—a very powerful poison, and a recognised poison prescribed in several diseases, one of which is dysmenorrhœa; and also that it was a noxious substance: and so this motion for leave to appeal fails, being based entirely upon the contention that there was no reasonable evidence that the substance, as supplied, was a "drug or other noxious thing."

GARROW, MACLAREN, and MAGEE, JJ.A., agreed that the motion should be refused.

## HIGH COURT OF JUSTICE.

DIVISIONAL COURT.

APRIL 25TH, 1912.

BELL ENGINE AND THRESHING CO. v. WESENBERG.

*Sale of Goods—Several Articles of Machinery—Divisible Contract—Separate Sale of each Article—Promissory Notes Given for Price of Whole Outfit—Action on—Counterclaim—Breach of Warranty—Defect in one Article—Return of—Allowance for—Set-off—Liability on Notes—Findings of Jury—Judgment—Costs.*

Appeal by the plaintiffs from the judgment of BARRON, Co. C.J., upon the second trial, with a jury, of an action in the