"We think that before a case is directed to be tried by a jury the Master should be satisfied that the case is one to which that mode of trial is best adapted. To this general rule we consider that there ought to be certain exceptions in the instances we have named.

"12. The mode of trial shall be by a Judge without a jury, but, on the summons for directions, on the application of either party, an order shall be made that the cause be tried by a jury, if it shall appear that the questions involved can conveniently be so tried; provided always that in the following cases the right of either party to a trial by jury shall be absolute—libel, slander, seduction, false imprisonment, malicious prosecution, breach of promise of marriage.'"

With reference to new trials, the report has the following:—

"The recommendation embodied in the following resolution (No. 18) may appear to confer a new and large power upon a Judge who tries a cause, but it does so in appearance rather than in reality. Without saying that at present when a Judge is, and expresses himself as being, dissatisfied with a verdict, the verdict is *never* upheld, it is now certainly, and has been ever since any of us have known the profession, the general rule, acted upon in the vast majority of cases, to set aside the verdict when the Judge so reports. And it has seemed to us, upon consideration, better to give to a Judge the power, subject to appeal, of doing that openly, directly, and inexpensively which, in the vast majority of cases, he really does now, but not openly, not directly, nor till after (in many cases) very considerable and useless expense to the parties:—

"'18. After the trial of any cause before a Judge and jury, the Judge may, upon application, certify that he is dissatisfied with the verdict, in which case a new trial shall take place unless the Court shall otherwise order.

"The following resolution was passed with the object of avoiding a new trial of the cause when the ground of objection is that the questions put to the jury have not exhausted the whole controversy between the parties.

"'19. Neither party shall have a right to a new trial on the ground that some question has not been left to the jury which the Judge at the trial has not been asked to leave to the jury. The Court shall have power in such cases either to direct a new trial, or, with the view of saving a further trial, to draw all inferences of fact, or take further evidence, or direct inquiry.

A very reasonable recommendation is that which proposes to tax the costs on a lower scale where the amount recovered is less than £200. At present the costs in the smaller actions in the Court of Queen's Bench are often four times larger than the sums in dispute.

The report concludes with suggestions for the diminution of appeals. We find the Committee strongly condemning the multiplication of tribunals of appeal, and they propose:—

"21. All appeals frem a Judge without a jury shall be to the Court of Appeal; and also where a Judge has directed a verdict for plaintiff or defendant; and the Court of Appeal shall thereupon have power to dispose of the whole case.

The following observation might apply with equal force to our Court of Review and Court of Appeal system:—"That three Judges should overrule the judgment of one Judge is natural and intelligible enough, and no one objects to it; but that three Judges in one room should be overruled by three other Judges sitting in another, is not, we believe, satisfactory to the public or the profession."

PROOF OF NOTARIAL INSTRUMENTS IN CRIMINAL CASES.

Members of the notarial profession complain of the inconvenience they suffer occasionally in being obliged to attend Criminal Courts merely to produce their original deeds and prove the authenticity of official copies. It is suggested that no harm would result if copies, which are as authentic as the originals, made proof of their contents in criminal as well as in civil matters. Our criminal law, borrowed from England, does not give the same authenticity to certified copies of notarial instruments as the civil law introduced from France, where notaries are, as in this Province, a recognized profession. To this accident of the two-fold source of our law is traceable the different practice of our civil and criminal courts on this question.

In a recent case, *Kerby* v. *Thayer*, in the Court of Queen's Bench, Mr. Justice Monk permitted a considerable divergence from the general rule of evidence in this matter. Mr. Cushing, a notary, having declared that he had no authority to produce the original deeds of Mr. Hunter, his partner, absent in England, the Court admitted the copies as proof of the original acts, upon the mere attestation of the witness as to the notary's signature on the copies, and the production of the originals was dispensed with. The reasonableness of this ruling is obvious, and if the members of the notarial profession were to make proper representations on the subject, the existing criminal law would perhaps be modified so as to accord to copies of their instruments in criminal trials, where no special reason exists for the production of the originals, the authenticity allowed to them by the civil law.