

LAW SCHOOL, &c.—WINSLOW'S CASE.

Messrs. Ridout, Fletcher, Bearsto and Clark obtained a remission of eighteen months from their time; Messrs. Lawson, Ross, Whiteside and Gamble, twelve months; and the others, six months.

JUNIOR CLASS—W. H. Biggar, R. W. Keefer, O. R. Macklem, J. V. Teetzel, J. C. Ross, J. Campbell, M. Sheppard, Jr., W. E. Higgins, E. Schoff, J. M. Munro, J. W. Holmes, R. Hodge, W. B. Northrup, J. J. Blake.

SELECTIONS.

WINSLOW'S CASE.

The controversy that arose so suddenly, and has been carried on for some months so industriously, between the United States and England, touching the extradition of two forgers, discusses an interesting question of international law, concerning which the only wonder is that it was not settled long ago, and that it takes so much writing to set it at rest now. The question is a simple one: the answer, to an ordinary mind, seems equally so; and the writers on the general subject, have expressed but one opinion upon it, so far as they have expressed any. It is, whether a person, surrendered by one government to another upon charge and proof of the commission of a certain crime, can lawfully, and against the objection of the surrendering government, be tried for a different crime committed before his surrender. That he cannot seems at once the dictate of common sense and of ordinary justice; and so are the authorities. The exigencies of the press require us to write this article,* when, of all the correspondence, only Mr. Fish's despatch of March 31, 1876, to Mr. Hoffman, has been published; and all that we know authentically of the position of the two governments is derived from that able and elaborate paper. Our readers will probably have the advantage of correcting our remarks by the light of fuller knowledge. In these circumstances we shall attempt only to deal with the obvious points of

law; and our text is, that the substance of the English demand appears to be right, but the time and circumstances of its enforcement unreasonable and vexatious; while our government, on the other hand, has taken ground, which, in its generality, international law will not uphold, though we are right in repelling the particular pretension that has been advanced by England. We sincerely hope that good will come out of this discussion, and that the practice of the two nations will now be fixed on a just and honourable basis; and we have every confidence that our representatives will do their full share in reaching this desirable end, which, whenever it comes, will be, in substance, that a surrendered prisoner shall be tried only for a crime included in the treaty under which he is given up, until he has had an opportunity to leave the acquired jurisdiction. The cases which have furnished the occasion of this misunderstanding are those of *Lawrence* and *Winslow*, of which we shall explain the history towards the close of this article; and the English demand is, that in the latter case we shall stipulate to try the fugitive only for the "extradition crime" for which his surrender is demanded.

We hold it to be clear, on ground of reason and authority, that a person surrendered by one sovereign to another, under a treaty of extradition, is to be tried for that crime, and that only, for which his surrender was asked and obtained. It is remarkable that not a word upon this subject is to be found in the works of any of the principal writers in the English language who have treated of international law, public or private. Wheaton and his commentators, Kent, Story, Phillimore, Wharton, Westlake, will be searched in vain for any utterance upon the point. Even Clarke, whose valuable book on Extradition is to our lawyers the principal source of information upon the subject, gives no opinion of his own, though he explains the practice of some countries and the decisions of some courts. The writers of Continental Europe are of one accord in support of the view which we maintain. Thus Felix: * "It is also the rule,† that the person whose extradi-

* June 1, 1876.

* Droit Intern. Privé, § 570.

† "De règle."