occupants of the English bench, and that Mr. Justice Mathew, who is in the minority, takes the more correct view when he says that the chief incentive to a prize fight, from which death or injury may result to one of the combatants, is the presence of a body of spectators.

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### *CHIEF JUSTICE HOLT AND THE HOUSE OF LORDS.*

The incident referred to by the Prime Minister in the House of Commons on Monday last forms one of the most notable instances in which the independence of the Bench has been vindicated by one of its own members in the face of Parliament, and is worthy of a fuller notice than it seems to have hitherto received from writers on constitutional law.

In 1694, an indictment for murder having been found against Charles Knowles, Esq., and removed by certiorari into the court of King's Bench, he pleaded in abatement that, being Earl of Banbury, he was a peer of the realm, and as such ought to be tried by his peers in Parliament. The replication stated that the prisoner had presented a petition to the Lords, praying that he might be tried by them, and that Parliament had thereupon resolved that he had no right to the Earldom of Banbury. After protracted argument, Lord Chief Justice Holt gave judgment that the plea was good and the replication bad, the Lords having no authority to decide a question of peerage, except on a reference from the Crown. Their resolution, therefore, was a nullity, and the prisoner was accordingly discharged.

Two or three years later, Knowles petitioned the Crown for a writ of summons as a peer, and the claim was regularly referred to the House of Lords. The House then found itself in an awkward position, for, although they now clearly had jurisdiction to examine the claim, they were unwilling to confess their former resolution invalid. They resolved, therefore, to wreak their vengeance on the Chief Justice, and ordered him to attend before the Committee of Privileges. Being then asked to assign the reasons for his judgment, he declined to do so. "I gave my judgment," he said, "according to my conscience. We are trusted with the law; we are to be protected and not arraigned, and are not to give reasons for our judgment." Being again summoned, he persisted in the same answer. The Committee then reported the proceedings to the House, and a resolution having been passed that the Chief Justice should be heard as to whether he did right in refusing to assign his reasons, he attended accordingly. "My Lords," he answered to the question put to him, "I have only respectfully to adhere to what I addressed to the Committee. * * * I never heard of any such thing demanded of a judge as that, where there is no writ of error depending, he should be required to give reasons for his judgment. I did think myself not bound by law to answer the questions put to me. What a judge does honestly in open court he is not to be arraigned for."

The debate was subsequently adjourned to the following Monday, and the House having prudently omitted to meet on that day, the matter was dropped, and never revived. It was from this case and the better known one of *Ashby* v. *White* that the popularity of Lord Chief Justice Holt principally arose.—*Law Times*, (London.)

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## NOTES OF CASES.

### COURT OF QUEEN'S BENCH.

MONTREAL, Dec. 16, 1881.

MONK, RAMSAY, TESSIER, CROSS, BABY, JJ.

DAWSON et al. (defts. below), Appellants, and TRESTLER (plff. below), Respondent.

*Damages caused by fall of snow from roof.*

The appeal was from a judgment of the Court of Review, Montreal, (See 3 Legal News, p. 76,) reversing a judgment of the Superior Court, Montreal, (See 2 Legal News, p. 344.)

The facts were alleged to be that a mass of snow fell from the roof of St. Bartholomew's Church into the street; the respondent, Trestler, was in a carter's sleigh, proceeding up Radegonde street, when a horse and sleigh coming down the hill, (the horse being frightened by the fall of snow above mentioned), came violently against the sleigh in which Trestler was seated, and threw him out, causing serious injuries.

The question was whether there was negligence on the part of the appellants, the trustees of the church. Mr. Justice Torrance, in the