The Legal News.

Vol. VIII. DECEMBER 12, 1885. No. 50.

They appear in England to have their "grand old men" on the bench as well as in the muddy pool of politics. Vice-Chancellor Bacon, according to the *Solicitor's Journal*, having triumphantly passed through a cold, has returned to work full of vigor and vivacity; and at eighty-seven years of age, displays a freshness of spirits not possessed by many of his sedate, though juvenile colleagues. Then again, it was remarked that the judges on the bench at the beginning of the last legal year, all made their appearance at the opening of the present year, the Lord Chancellor excepted, and his absence was attributable to the change of administration. The oldest of the judges will be eighty-eight next February, and their average age is sixty-three.

If leave to appeal from the decision of the Supreme Court had been granted by the Privy Council in *Montreal City Passenger Railway Co. & Parker*, the functions of the Judicial Committee would have been considerably enlarged. As Sir Richard Couch observed, it was pretty much a question of evidence, and the Judicial Committee could not disturb the judgment of the Supreme Court without undertaking to examine the evidence anew. The appeal in ordinary course having been taken away by statute, this seems to be peculiarly a case in which the appeal as "an act of grace" should not be accorded. The case had been fully discussed in three courts, and the original judgment had been restored by the final decision. "Interest reipublicæ ut sit finis litium."

The suggestion, in some London journals, that the reception of Chief Justice Waite (Chief Justice of U. S. Supreme Court) in England was not in keeping with that accorded to the Chief Justice of England when he visited the United States, has elicited the following from Lord Coleridge:—"I was sorry to see from the *Albany Law Journal* that several of our papers have found fault with the reception of your good and honored chief justice. I can only say that we did our best, but he came at a most unfortunate season. The circuits were going on, and most of the judges were out of London. But he came here one day, and I announced him, and the bar received him standing, and stood up when he went away. He sat at my right hand as if he had been a member of the court. We had a reception of queen's counsel, and a curious case as to conusance of plea by the University of Oxford, in which the charters of Henry VIII and Queen Elizabeth were produced in original, and the chief justice inspected them both. I pressed him and Mrs. Waite to come and stay with me, but (wisely, I think) he preferred the freedom of a hotel. However, I got together all the great lawyers I could, and gave him and Mrs. Waite a dinner. I did all in my power in other ways, not merely as a duty, but from gratitude to him and his colleagues for the great kindness and honor they showed me, and from deep and unfeigned regard for the chief justice himself. He writes to me in a strain of thorough satisfaction:—'You know how well I was taken care of in London. Everywhere on my travels I was equally well treated. My name, if I chose to give it, was a passport to any place I wanted to see, and on the circuit I met Baron Pollock at Lincoln, and Mathew and Wills at York. They did every thing that was possible for me, and I enjoyed every moment of my stay with them. The bar of the north-eastern circuit were very anxious that I should dine with them, but I had to decline.' There is more to the same effect, but this will show you that the chief justice himself had no sense of slight or of discourtesy. I had proposed a bar dinner to him in one of the halls of the Inns of Court, but so many of the bench and bar must have been absent that it was thought better not to have one. I hope you will let your readers know that as far as we could we did honor to a man who most justly deserves it on every ground, public and private."

THE MONTREAL LAW REPORTS FOR NOVEMBER.

The Montreal Law Reports for November comprise pp. 432-480 of the Queen's Bench Series, and pp. 448-480 of the Superior Court Series. In the former, eight cases are reported. In *Hamilton Powder Co. & Lambe* the Court were unanimous in maintaining the decision of the Court below, which affirmed the right of the local legislature to enact a penalty for keeping a powder magazine without a license. But the judges differed as to the reasons. The Chief Justice and Judge Cross held that the local legislature had the right to enact the penalty as a police regulation, even assuming the license fee to be *ultra vires*. Judge Ramsay, on the other hand, holds that the local legislature has the right to exact a license fee under the B. N. A. Act, sect. 92, No. 9. In *City of Montreal & Walker*, it was unanimously held that the City of Montreal, under a power 'to license and regulate' junk stores, could not levy a revenue tax of fifty dollars on each license issued (in addition to the ordinary taxation). In *Reg. & Provost*, a Reserved Case was sent back for amendment, and subsequently the validity of the 32 & 33 Vict., c. 29, s. 24, was maintained without hesitation. In *Bury & Samuels* an interesting question of procedure upon execution was settled. Where the judgment creditor has seized and sold sufficient to cover his claim, and oppositions on the moneys are filed alleging the defendant's insolvency, the plaintiff cannot obtain an *alias* writ, to sell the remainder of the defendant's effects, without proof of his insolvency.

In the Superior Court Series for November sixteen cases are reported. In *Cité de Montréal* v. *Séminaire St. Sulpice* it is held that the exemption from municipal taxes enjoyed by educational institutions extends to taxes imposed for special purposes. In *Macfarlane* v. *McIntosh* it was decided that a tender of rent, not being a commercial matter, cannot be proved by parol evidence. In *La Cie. de Prêt & Lemire*, the Court held that there is no such thing as a demurrer to a demurrer. In *Cité de Montréal & Beaudry*, it was decided that a proprietor in the City of Montreal cannot be sued for failure to remove snow or ice from the sidewalk before a house or lot owned by him, unless he occupies the house himself, or the lot be a vacant lot. In *Minto* v. *Foster*, it was held, on demurrer, that the condition annexed to a bequest of money to a married woman *commune en biens*, that it shall not be subject to the control of her husband, and shall be for aliment, and not subject to seizure, is valid, and the husband cannot bring any action in respect of such money. In *Gaudry* v. *Judah*, the Court of Review held that where dealings between the parties have been conducted upon the basis of passbooks held by each, and only one is produced, and it is reasonably substantiated by testimony, it must prevail. The case of *Desmarais* v. *Picken* illustrated the right of the vendor to re-sell at the purchaser's risk, where the latter refuses to accept on a frivolous pretence. The case of *Minogue* v. *Quebec Fire Ass. Co.* shows how a material concealment voids the contract of insurance. There are also a number of other cases of considerable importance.

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*COURT OF QUEEN'S BENCH—MONTREAL.**

Procedure—Execution—Insolvency of defendant—Opposition.

HELD:—That where a judgment creditor has caused the seizure and sale of a portion of the defendant's effects, sufficient to cover his claim as stated in the writ of execution, he cannot subsequently, upon a mere allegation that the defendant is insolvent, and that oppositions *afin de conserver* have been filed by other creditors, obtain an order for an *alias* writ of execution, for the purpose of seizing and selling the remainder of the defendant's effects. *Bury*, Appellant, and *Samuels*, Respondent.—Dorion, C. J., Monk, Ramsay, Cross, Baby, JJ. (Ramsay and Baby, JJ., *diss.*). March 24, 1885.

Ship—Charter-party—Demurrage—Dead Freight.

The charter-party provided that the ship was to be loaded "as fast as can be received "in fine weather, and ten days' demurrage

* To appear in Montreal Law Reports, 1 Q. B.

" over and above the said lying days, at forty " pounds per day. The ship to have an ab- " solute lien on the cargo for all freight, dead " freight, and demurrage due under this " charter-party, but charterers' responsibility " to cease upon shipment of the cargo, pro- " vided the cargo be worth the freight, de- " murrage, etc., on arrival at the port of dis- " charge. Should ice set in during loading " so as to endanger the ship, master to be " at liberty to sail with part cargo and to " have leave to fill up at any open port on " the way homeward for ship's benefit."

HELD (CROSS, J. *diss.*):—That notwithstanding the clause as to ship having leave to fill up at other ports on the homeward voyage, the shipowner was entitled to dead freight, owing to the setting in of ice having occasoned the departure of the vessel before the loading was completed, the completion of the loading having been retarded and prevented by the fault of the charterer. *Lord et al.*, Appellants, and *Davison*, Respondent.—Dorion, C.J., Monk, Tessier, Cross, Baby, JJ., (Cross, J. *diss.*). April 2, 1885.

Powers of Provincial Legislatures—License for storage of Gunpowder—41 Vict. (Q.) cap. 3, sections 170, 171—Action for Penalty.

HELD:—1. That a powder manufactory, where a quantity of powder exceeding 25 lbs. is kept, is a powder magazine within the meaning of 41 Vict. (Q.) cap. 3, sect. 170.

2. (By the majority of the Court):—That the Act above cited, which imposes a penalty for failing to take out a license, is not *ultra vires*, being in the nature of a police regulation, and as such within the powers of the local legislature, even supposing the provision of the Act requiring a fee of $50 to be paid for a license were *ultra vires* as a revenue tax.

(By Ramsay, J.) That the Act is valid, not as a police regulation, but as a license Act, the local legislatures having power, under the B. N. A. Act, sect. 92, ss. 9, to pass an act for raising revenue by a license fee. *The Hamilton Powder Co.*, Appellants, and *Lambe es qual.*, Respondent.—Dorion, C. J., Monk, Ramsay, Cross, JJ. November 23, 1885.

Municipal Corporation—Power to license and regulate—License fee—Reception of thing not due—C. C. 1047.

HELD:—1. That a power granted to a municipal corporation to license and regulate a particular business does not authorize the exaction of a revenue duty, but only of a moderate fee sufficient to cover the cost of issuing the licenses, and of inspecting and regulating the same. So, where the City of Montreal was empowered to license and regulate junk stores, it was held that the exaction of a license fee of $50 per annum was illegal.

2. That where such fee had been paid to the city during three years in succession before contesting the validity of the exaction, the same might be recovered by the person who had paid the fee. *The City of Montreal*, Appellant, and *Walker*, Respondent.—Dorion C. J., Monk, Cross, Baby, JJ. November 27, 1885.

Reserved Case—Amendment.

HELD:—That where a Case Reserved for the consideration of the Court of Queen's Bench, pursuant to the Statute in that behalf, does not contain a question which, in the opinion of the full Court, it is essential to decide in connection with such case, it may be sent back to the Court which reserved the same, for amendment. *Regina* v. *Provost.*—Monk, Ramsay, Tessier, Cross, Baby, JJ. January 27, 1885.

Powers of Federal Legislature—32 & 33 Vic. c. 29, s. 44—Jury Law, Province of Quebec, 46 Vic. c. 16 (Q.)—Indictment for Robbery.

HELD:—1. That the Parliament of Canada, in declaring, by 32 & 33 Vict. c. 29, s. 44, that " every person qualified and summoned as a " Grand Juror, or as a petty juror, in criminal " cases, according to the laws which may be " then in force in any Province of Canada, " shall be and shall be held to be duly quali- " fied to serve as such juror in that Province, " etc." did not legislate *ultra vires*, and therefore the Jury Act of the Province of Quebec is constitutional.

2. The word "together" is not essential in an indictment against two persons for robbery,

to show that the offence was a joint one. *Regina* v. *Provost.*—Dorion, C. J., Monk, Tessier, Cross, Baby, JJ., March 19, 1885.

Contract—Lease of Steam-power—Sub-lease.

HELD :—That a contract of lease of steam-power to the extent of six-horse power, was not violated by sub-letting a portion of the motive power, there being no more power used than was mentioned in the lease, and there being no prohibition against sub-letting.—*Sharpe et al.*, appellants, and *Cuthbert et al.*, respondents.—Monk, Ramsay, Tessier, Cross, Baby, JJ. May 26, 1885.

Procedure—Declaration of Tiers Saisi—Contestation—C. C. P. 619.

HELD :—Where the garnishee has declared that he owes the defendant nothing, but in answer to questions put by the judgment creditor, under C. C. P. 619, has made admissions which apparently show that he has a sum in his hands belonging to the defendant, that the proper course is to contest the declaration, and not to inscribe for judgment *ex parte* on such statements. *Grant*, appellant, and *The Federal Bank of Canada*, respondent. Dorion, C. J., Monk, Cross, Baby, JJ. Nov. 25, 1885.

PRIVY COUNCIL.

LONDON, NOV. 19, 1885.

Coram LORD FITZGERALD, LORD MONKSWELL, LORD HOBHOUSE, SIR BARNES PEACOCK, SIR R. COUCH.

THE MONTREAL CITY PASSENGER RAILWAY CO., Appellants, and PARKER, Respondent.

Appeal from Supreme Court—Leave to appeal refused on question of evidence.

This was an application for special leave to hear the appeal of the appellants against a decision of the Supreme Court of Canada.

Mr. *Jeune* said the action was brought for personal injuries against the Montreal City Passenger Railway company. The cause of action was that the respondent was travelling in a waggon through the streets of Montreal, and across the track of the railway, and the waggon in which he was, caught the rail in some manner and he was thrown out of it.

LORD FITZGERALD—Is there any question of amount?

Mr. *Jeune*—No, my lord. The question is one of law, and of considerable importance to the railways in Canada. That is the proposition which I shall have to contend for, and what I wish to show is this, that the learned judge of the court below in the first instance never decided the case on the facts at all, but decided it on what I submit is clearly an erroneous principle of law of very considerable importance indeed. What he held was that this company, being governed by a by-law and by a provision of an act of Parliament the by-law must prevail. The by-law provided that the railway shall be liable for accidents caused by the obstruction made by placing the rails in the streets, and the act of parliament provided that the rails should be laid down in a particular way. The view of the railway company (and on which they have acted) is this: That if they make their railway through the streets according to the provision of an act of Parliament they are not liable for accidents caused by their rails being so constructed, and that the provision in the by-law which makes them liable in all cases practically is subjected to the express provision of the act of Parliament, which says that they must lay down their rails in a particular way. If they do lay down their rails in that way they are not liable for the rails being so laid down. That is what I say the court of first instance decided wrongly in holding that the company was liable for the accident caused apart from negligence. The learned judge did not decide on the real facts at all, that is to say, on the question of negligence on the part of the defendants, but he decided it on an erroneous principle of law. Then the case went to the Court of Appeal, and there they decided the facts by four to one in favor of the railway company that there was no negligence. It then went to the Supreme Court, who decided the question of fact the other way. It was a case of considerable hardship on the railway company, for the judge in the Court of first instance heard the evidence and pronounced no opinion upon the facts, but went wrong in his law, and the Court of Appeal on that decided by a majority of four to one on the facts

in favor of the company, and then the Supreme Court reversed that judgment on the facts also by a majority of four to one. Opinion is equally divided among the judges, and there still remains the question in which the judge of the first court was clearly wrong, viz., that under the codes of this by-law and this act of Parliament, the railways in Canada are liable. I shall submit that the decision is clearly erroneous.

Sir Barnes Peacock—But it is very hard on the plaintiff to do battle on behalf of the public.

Mr. *Jeune*—I say that there is no negligence on the part of the railway company.

Sir B. Peacock—But the Supreme Court have found that there was.

Mr. *Jeune*—But the same number of judges have found that there was not. The learned counsel then called attention to the principle of the thing. The by-law was a by-law of the city of Montreal—"And the said company shall be liable for damages arising either from the construction of the railway or from the works they shall cause to be laid down in the streets." Then there was an act of the Legislature which provided that the rails of the company should be raised flush with the streets and the highways, and that the railway track should conform with the same, so as to offer the least impediment to the ordinary traffic, and that the ordinary vehicles might use the same tracks, provided that they did not interfere with the cars of the company. The by-law says that "you shall be liable for all damages arising from the construction of the railway or of the works which cause it;" yet Parliament says: "You shall make your railway in a particular manner." The court of first instance held in effect that on the by-law they were liable, apart from any question of whether they made the railway according to the act of Parliament or not; but inasmuch as the by-law said they were liable in all cases whether their rails were made properly or not, they entirely ignored the effect of the Dominion Act and treated the corporation by-law alone as law. I say that is bad law.

Lord Monkswell—The Supreme Court held that there was evidence of negligence. They took a different view of the evidence from the court of the province.

Mr. *Jeune*—As regards four judges they say "You are right. The railway company are not liable if they lay their railway in accordance with section 5, and in this case we say that it was not laid according to section 5."

Lord Hobhouse—They were overruled.

Mr. *Jeune*—Yes, they held on the facts in favor of the company. When they came to the Supreme Court they took a different view, and they held that there was negligence on the part of the company in not laying their rails in accordance with the section.

Sir B. Peacock — We should have to go into a question of fact as to this negligence. Is that a case on which we can advise Her Majesty?

Mr. *Jeune*—I cannot dispute that if you decide the question of law then you must go into the facts.

Sir R. Couch—It seems to me very much a question of fact.

Mr. *Jeune*—Well, the two courts below, with an equal number of judges, have taken a different view of the facts, and neither has heard the evidence of the witnesses.

Sir B. Peacock—We should be in the same position as those courts. We should not have heard the evidence.

Mr. *Jeune*—Just so.

Their lordships consulted, and

Lord Fitzgerald said:—Their lordships are of opinion that there are not sufficient grounds in this case to recommend Her Majesty to allow the appeal.

Judgment accordingly.

THE QUEEN v. *RIEL.*

Memorandum respecting the case of the Queen v. Riel, prepared at the request of the Committee of the Privy Council.

The case of Louis Riel, convicted and executed for high treason, has excited unusual attention and interest, not merely in the Dominion of Canada but beyond its limits. Here it has been made the subject of party, religious, and national feeling and discussion; and elsewhere it has been regarded by some as a case in which, for the first time in this generation, what is assumed to have been a political crime only has been punished with death.

The opponents of the Government have asserted that the rebellion was provoked, if not justified, by their maladministration of the affairs of the North-West Territories, and inattention to the just claims of the half-breeds.

With this question, which has been made one of party politics, it is not thought becoming to deal here.

Upon such a charge, when made in a constitutional manner, the Government will be responsible to the representatives of the people, and before them they will be prepared to meet and disprove it.

Appeals to the animosities of race have been made in one of the Provinces with momentary success. Should these prevail, the future of the country must suffer. Parliament will not meet for some time, and in the interval, unless some action is taken to remove these animosities, they will gain ground, and it will become more difficult to dispel belief in the grounds which are used to provoke them.

It is thought right, therefore, that the true facts of the case, and the considerations which have influenced the Government, should be known, so that those who desire to judge of their conduct impartially may have the information which is essential for that purpose.

It has been asserted that the trial was an unfair one, and before a tribunal not legally constituted; that the crime being one of rebellion and inspired by political motives, the sentence, according to modern custom and sentiment, should not have been carried out; and that the prisoner's state of mind was such as to relieve him from responsibility for his acts.

After the most anxious consideration of each one of these grounds the Government have felt it impossible to give effect to any of them, and have deemed it their duty to let the law take its course.

I am now desired, in a matter of such grave importance and responsibility, to place on record the considerations which have impelled them to this conclusion:—

1. As to the jurisdiction of the court and the fairness of the trial.

It should be sufficient to say that the legality of the tribunal by which he was tried has been affirmed by the Privy Council, the highest court in the Empire, and has seemed to them so clear that the eminent counsel who represented the prisoner could not advance arguments against it, which were thought even to require an answer.

It has been said that a jury composed of six only, and the absence of a grand jury, are features so inconsistent with the rights of British subjects that the prisoner had still ground of complaint; but, as was pointed out in the Privy Council, the same crime may be tried elsewhere in the British Empire, notably in India, without any jury, either grand or petty, and this mode of trial has been sanctioned by the Imperial Parliament.

It is to be observed also, that the offence was tried in the country in which it was committed, under the law as it then existed and had existed for years, and that this is a course of which no offender can fairly complain, while it is a right to which every criminal is entitled.

Of the competency of the court, which had been affirmed by the full court in Manitoba, the Government saw no reason to entertain doubt; but having regard to the exceptional character of the case, the usual course was departed from in the prisoner's favor, and a respite was granted, to enable him to apply to the ultimate tribunal in England, and thus to take advantage to the very utmost of every right which the law could afford him.

The fairness of the trial has not been disputed by the prisoner's counsel, nor challenged either before the Court of Appeal in Manitoba, or the Privy Council. It has, on the contrary, been admitted, not tacitly alone by this omission, but expressly and publicly. It may be well, however, to state shortly the facts, which show how the duty which the Government fully acknowledged both to the public and the prisoner has been fulfilled.

It was most desirable not only to ensure the impartial conduct of the trial, which would have been done by the appointment of any barrister of known standing, but to satisfy the public that this had been effected; and in view of this the prosecution was entrusted to two leading counsel in Ontario, known to be in sympathy with different political parties. With them was associated a

French advocate of standing and ability in Quebec, and the personal presence and assistance of the Deputy Minister of Justice was given to them throughout the proceedings.

The procedure adopted and the course taken at the trial, to be now shortly stated, as it appears on the record, will show that every opportunity for the fullest defence was afforded; and it is needless to add, what is well known and recognized, that the prisoner was represented by counsel whose zeal and ability have made it impossible to suggest that his defence could in any hands have been more carefully or more ably conducted.

The charge was made against the prisoner on the 6th of July, 1885, and the trial was then fixed to take place on the 20th of that month, of which the prisoner was duly notified.

On the same day a copy of the charge, with a list of the jurors to be summoned and of the witnesses to be called, was duly served upon him, the Crown waiving the question whether this was a right which could be claimed, and desiring, as far as possible, to afford every privilege which, under any circumstances or before any tribunal, he could obtain, and which, consistently with the procedure otherwise prescribed in the Territory, could be granted to him.

On the day named, the prisoner, having been arraigned, put in a plea to the jurisdiction, to which the Crown at once demurred, and this question was then argued at length. The grounds taken by the prisoner's counsel had been in effect decided unfavorably to their contention by the Court of Queen's Bench in Manitoba in a recent case, and the presiding judge held that it was therefore impossible for him to give effect to them.

This decision having been announced, the prisoner, by his counsel, then demurred to the information, which was alleged to be insufficient in form, and this demurrer having been argued, was also overruled.

The prisoner then pleaded not guilty, and his counsel applied for an adjournment until the next day, to enable them to procure affidavits on which to apply for a further postponement of the trial; and, the Crown not objecting, the court adjourned.

On the following day, July the 21st, the prisoner's counsel read affidavits to the effect that certain witnesses not then present were necessary for the defence, and that medical experts on the question of insanity were required by them from the Province of Quebec and from Toronto. They represented that the prisoner had not had means to procure the attendance of these witnesses, and desired an adjournment for a month, during which they would be able to obtain it.

In answer to this application, of which the Crown had no notice until the day previous, the Crown counsel pointed out that these medical witnesses, as well as some others in the North-West Territories who were wanted, could all be got within a week; and they offered not only to consent to an adjournment for that time, but to join with the prisoner's counsel in procuring their attendance, and to pay their expenses.

The counsel for the prisoner accepted this offer, which the presiding judge said was a reasonable one, and the trial was adjourned until the 28th. In the meantime the witnesses were procured. They were present and were examined for the prisoner, and their expenses were paid by the Crown, the medical gentlemen being remunerated as experts at the same rate as those called for the prosecution. The other grounds which had been urged for delay were not further pressed.

The court met on the 28th. No further adjournment was asked for, and the trial proceeded continuously until it was concluded on the 1st of August. The exceptional privilege accorded to persons on trial for treason, of addressing the jury after their counsel, was allowed to the prisoner and taken advantage of.

As to the general character of the tribunal, and the ample opportunity afforded to the prisoner to make his full defence, it may be well to repeat here the observations of the learned Chief Justice of Manitoba in his judgment upon the appeal.

"A good deal," he remarked, "has been "said about the jury being composed of six "only. There is no general law which says "that a jury shall invariably consist of "twelve, or of any particular number. In "Manitoba, in civil cases, the jury is com-

"posed of twelve, but nine can find a ver-
"dict. In the North-West Territories Act,
"the Act itself declares that the jury shall
"consist of six, and this was the number of
"the jury in this instance. Would the
"Stipendiary Magistrate have been justified
"in impannelling twelve, when the Statute
"directs him to impannel six only? It was
"further complained that this power of life
"and death was too great to be entrusted to
"a Stipendiary Magistrate.

"What are the safeguards?

"The Stipendiary Magistrate must be a
"barrister of at least five years standing.
"There must be associated with him a
"Justice of the Peace and a jury of six. The
"court must be an open public court. The
"prisoner is allowed to make full answer
"and defence by counsel. Section 77 permits
"him to appeal to the Court of Queen's
"Bench in Manitoba, when the evidence is
"produced, and he is again heard by counsel,
"and three judges re-consider his case.
"Again, the evidence taken by the Stipen-
"diary Magistrate, or that caused to be taken
"by him, must, before the sentence is carried
"into effect, be forwarded to the Minister of
"Justice; and sub-section eight requires the
"Stipendiary Magistrate to postpone the
"execution from time to time, until such
"report is received, and the pleasure of the
"Governor thereon is communicated to the
"Lieutenant-Governor. Thus, before sent-
"ence is carried out, the prisoner is heard
"twice in court, through counsel, and his case
"must have been considered in Council, and
"the pleasure of the Governor thereon com-
"municated to the Lieutenant-Governor.

"It seems to me the law is not open to the
"charge of unduly or hastily confiding the
"power in the tribunals before which the
"prisoner has been heard. The sentence,
"when the prisoner appeals, cannot be car-
"ried into effect until his case has been
"three times heard, in the manner above
"stated."

The evidence of the prisoner's guilt, both upon written documents signed by himself and by other testimony, was so conclusive that it was not disputed by his counsel. They contended, however, that he was not responsible for his acts, and rested their defence upon the ground of insanity.

The case was left to the jury in a very full charge, and the law, as regards the defence of insanity, clearly stated in a manner to which no exception was taken, either at the trial or in the Court of Queen's Bench of Manitoba, or before the Privy Council.

2. With regard to the sanity of the prisoner and his responsibility in law for his acts, there has been much public discussion.

Here again it should be sufficient to point out that this defence was expressly raised before the jury, the proper tribunal for its decision; that the propriety of their unanimous verdict was challenged before the full court in Manitoba, when the evidence was discussed at length and the verdict unanimously affirmed. Before the Privy Council no attempt was made to dispute the correctness of this decision.

The learned Chief Justice of Manitoba says in his judgment: "I have carefully read the "evidence and it appears to me that the "jury could not reasonably have come to "any other conclusion than the verdict of "guilty. There is not only evidence to sup-"port the verdict, but it vastly prepon-"derates."

And again: "I think the evidence upon "the question of insanity shows that the "prisoner did know that he was acting "illegally, and that he was responsible for "his acts."

[Concluded in next issue.]

GENERAL NOTES.

What contemptible questions the law is compelled to stoop to is illustrated in the case of *Le May* v. *Welch*, 51 L. T. Rep. (N.S.) 867, where the Court of Appeals gravely sit in judgment on the shape of "a dude" collar, on a charge of infringement of patent. Baggallay, L. J., says: "Here is a collar of particular shape, which the plaintiffs call the 'Tandem Collar.' It is a collar which encircles the neck, as all collars do, but it has no band like the old-fashioned collars. It has a stud-hole at the bottom, leaving a considerable amount of space above, not only up to the line where the collar encircles the neck, but a broad rim before there comes a cut in the collar, which cut has been referred to very much. It has been called a segmental cut. A more correct way of describing the collar would be 'an all-round collar,' having a wedge-like form cut into it," etc. And two other judges also express opinions on the momentous question of novelty of invention.—*Albany Law Journal.*