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CURRENT TOPICS AND CASES.

The decision of Mr. Justice Lynch in *Bouchard* v. *Gill* has attracted considerable notice, and some of the comments elicited indicate an imperfect comprehension of the point determined. It may be useful, therefore, to place before our readers the exact words of the learned judge, which will be found on another page. Mr. Justice Lynch supports his decision by English authorities. The point is an interesting and delicate one, and it is therefore satisfactory to learn that the case will receive further examination by the Court of Appeal, as suggested by the learned judge who pronounced the decision of the court below.

The Shortis case has been remarkable in several respects, but in none so peculiar as in the circumstances attending the commutation of the capital sentence, which are disclosed in the papers laid before Parliament. It would be hard to imagine a case less deserving of clemency if the prisoner was sane when he committed the crime of which he was convicted. The jury, after a very long and careful trial, decided that he was sane, and the learned judge who presided, in his confidential report,

says: "I believe he knew what he was doing, and he knew it was wrong;" but he proceeds to qualify this to some extent by adding: "At the same time I am bound to say that the evidence of the convict's acts previous to the murder, points to the conclusion that he is not perfectly sane; but although I think he was not perfectly sane, at the same time I believe he was not so insane as not to know that the murder he was committing was wrong." The concluding words of the judge's report are:—"Taking into consideration the acts of Shortis previous to the murder, and especially his acts in Ireland, also the evidence of the medical men, and all the other circumstances, perhaps this is a case where the clemency of His Excellency the Governor General in Council might be exercised in sending Shortis to the penitentiary for life instead of having him executed." In view of this report it might be supposed that commutation would follow. The then Minister of Justice, however, on the 24th December, recommended that the sentence be carried out. Strange to say, the cabinet was equally divided on the question, which would imply considerable tenacity of opinion on either side. The result was that no advice could be tendered to His Excellency, and Lord Aberdeen, after consulting the Secretary of State for the Colonies, and being directed to decide according to his own judgment, granted a commutation of the sentence to imprisonment for life. It is difficult to see how His Excellency could possibly have decided otherwise under the extraordinary circumstances of the case; but it is greatly to be regretted that in a case of this nature, in which no public question was involved, and the bulk of the evidence was enormous, the responsibility of setting aside the verdict of the jury should have been imposed on the Governor General.

A person in Indiana was recently committed to gaol because he made masonic signs to the judge on the bench,

apparently for the purpose of assisting his brother, who was a litigant before the court. The judge, who is a mason, first requested the man to refrain from interference, and afterwards ordered an officer to arrest the offender. If masonry shielded, or even tolerated, such conduct, it would merit general reprobation, but, as far as we have observed, the act of the judge has been commended by those who represent the order. It may be added to this curious incident that Judge Thompson, of St. Louis, states that at one time, while he was sitting on the bench, he observed signs made to him by members of the bar, of such uniform character that he believed them to be signs of some secret order. Judge Thompson is not a mason, and there is room for supposing that he was accidentally deceived, for masonic members of the bar might easily ascertain the fact whether he was a mason or not, before adopting such a perilous method of influencing the court, which, moreover, implied a rather low appreciation of the integrity of the judge, and, in the case of Judge Thompson, would not have the remotest probability of success.

Sir Edward Clarke, in acknowledging a resolution which expressed regret that he was not a member of the present government, stated that the offer was made to him in the kindest and most pressing manner that he should resume the office he held in the former Conservative Government (that of solicitor-general), but in the interval there had been changes with regard to the position and the income of that office which he thought to be injurious to the office itself and to the profession to which he belonged. The question of income did not weigh with him for a single moment. He never reckoned what the difference in the income might be between the one arrangement and the other; but he had made his way by work at the Bar, and he was a member of a great profession, and took great pride in the dosition which he

had been allowed to hold in it. He was certain that the change that had been made in the arrangement with regard to the law officers under the Crown was a change which would produce a greater expenditure of public money without any increase of public efficiency, and would, at the same time, injuriously affect the position of the law officers with regard to their brethren at the Bar. Having come to that conclusion, he said it was obviously his duty to make the only practical protest that he could make against what he thought a mischievous change, by refusing to accept office upon those terms. The change referred to is that which precludes the law officers of the Crown from taking private cases. (See Vol. 18, p. 191.)

THE PRIVILEGE OF THE CONFESSIONAL.

An interesting decision on the limits of the privilege of religious advisers, under article of 275 of the Code of Procedure, was rendered by Mr. Justice Lynch, at Sweetsburg, on the 11th February, 1896, in the case of Louis Victor Bouchard v. The Rev. Marcil Gill. His Honour said:—Plaintiff alleges that he is a tinsmith in the Village of Granby; that Charles Bernier, a minor, was his apprentice; that, some time before the termination of his engagement, and when the apprentice had become useful to him, defendant wrongfully and illegally induced the apprentice to leave his service; that he has, in consequence, suffered a loss and damage of $117.50, for which defendant is responsible.

Defendant denies plaintiff's allegations, and specially alleges that he is the Roman Catholic priest of the Parish of Granby, and that young Bernier and his father are in his parish and under his spiritual control, and that, whatever took place between the boy and him, was in his capacity as spiritual director, was in good faith, and is privileged.

On the 15th January last, defendant was under examination as a witness for plaintiff, when the following took place: Question —"What do you mean in your second plea, 'that the only counsel and advice which you gave to the said Bernier, about the month of September then past (1893), was in the confessional, as spiritual director, and under the seal of confidential secrecy, in good faith, and without malice?'" Answer—"If I spoke to the

child about this matter, it was in the confessional." Question—"Did you counsel the said Charles Bernier, or did you advise him to leave the service of the plaintiff, either at the confessional or elsewhere?" "The defendant objects to declare, or to reveal what may have been said at the confessional during the confession, as being illegal and inadmissible."

The privilege, thus invoked, is claimed under a portion of article 275 of the Code of Civil Procedure, which reads: "He (the witness) cannot be compelled to declare what has been revealed to him confidentially in his professional character as religious or legal adviser." This is new law, in the sense that it had not been previously expressed in an authoritative form, but was a matter of judicial precedent. In France the privilege existed, and still exists, in favor of the religious as well as the legal adviser—whereas in England it has always been restricted to the legal adviser. Our article is more general, and extends its application to both, and is based upon the principles of both systems. It will be observed that it establishes no difference between the two classes of advisers, that it applies equally to all religious advisers, and that it is immaterial where the communication takes place, provided it be with the adviser in his professional character. Plaintiff contends that in this instance the privilege does not apply, inasmuch as the matter referred to in the question was not within the attributes of defendant in his religious character as the spiritual adviser of young Bernier.

The general principle is so clearly laid down in the article, and its application so well understood and conceded, that no possible difficulty can arise on that head. The only matter for enquiry now is,—is such general principle applicable under the circumstances as disclosed by the question itself; and is defendant, in consequence, entitled to claim the privilege? Under the old French jurisprudence, priests were punished for acts done and things said by them at the confessional, and their penitents were allowed to give evidence as to the things so said and done (Guyot *vo.* "Confesseur.") Now in France, by art. 378 of the Penal Code, no person who, by his position or profession, is the depository of secrets committed to him, can reveal such secrets, under penalty of imprisonment from one to six months, and of a fine of 100 to 500 francs; and this has been held to apply to the clergy and to attorneys. I have examined, with much interest, a very excellent treatise on this article by

Mr. Merteau, and I would refer specially to pages 48, 49, 56, 426 and 432. Mr. Merteau inclines to the belief that now, in France, such person to whom a projected crime or offence was revealed, would be as much bound to keep the same secret as he would be if, at the time, it had actually been committed; but he gives no authority to support this view.

The only cases before our courts, in which a question at all approaching the one in issue here, arose, are the following: *Ethier* v. *Homier*, 18 L. C. J., p. 83, where the late Mr. Justice Torrance, relying largely upon English authorities, compelled an attorney to answer the following question:—"Take communication of exhibit 'C' of the plaintiff, which was produced at *enquête* in this case, and say whether you wrote this letter at the request of the defendant." There is much analogy between that case and this one, so far as the principle involved is concerned; for it must always be borne in mind that the law makes no distinction between the clergyman and the attorney. And it would seem that if one cannot claim the privilege of refusing to answer, where he is alleged to be a party to the wrong done, the other is equally debarred from claiming it. In the Ethier case, the action was for damages for slander contained in a letter alleged to have been written, or caused to be written, by the defendant. Here the action is for damages resulting from a desertion of service, alleged to have been incited by the witness. In *Massé et al.* v. *Robillard*, which was a petition under the Quebec Electoral Act, 10 R. L., p. 527, a witness under examination was asked: "Pendant cette élection avant la votation, vous êtes-vous présentés pour vous confesser au Révérend Messire Jean-Baptiste Champeau, prêtre, curé de la ville de Berthier, et pour quelle raison a-t-il refusé de vous confesser?" This question was objected to, on the ground that what took place at the confessional could not be divulged by any of the parties; and canon law was quoted in support of the objection. The late Mr. Justice Olivier maintained the objection, holding, upon the authority of Taylor, that in England a client would not be allowed to repeat what had been said to him by his legal adviser; and that for similar reasons, the penitent could not divulge what was communicated to him by the priest. I can see no good reason to question the wisdom of the ruling in this case. The priest was clearly in the exercise of his own rights in refusing to hear the confession of an applicant; and it would be most improper for a civil court

to permit an enquiry, from any source, to be made concerning the reasons of such refusal.

In England, this privilege does not exist for clergymen; but it has long been in force as regards attorneys; and as our law places the two classes in the same position, reference may, with advantage, be had to the English authorities on the subject. Taylor, in his work on evidence, devotes nearly an entire chapter to it; and special reference in this connection may be made to Nos. 911, 912, 913 and 930 (8th edition). In the last cited number he mentions several instances where the rule does not apply, and where the privilege does not exist, such as where the knowledge was acquired by the solicitor in a measure by his acting as a party to the transaction, and the more especially so, if this transaction was fraudulent—where it had no reference to professional employment, though disclosed while the relation of solicitor and client subsisted—and where the solicitor had assumed another character for the occasion. In such cases Taylor says: —"It is plain that the solicitor is not called upon to disclose matters which can be said to have been learned by communication with his client, or on his client's behalf; matters which were so communicated to him in his capacity of solicitor, and matters which in that capacity alone he had come to know." The *St. James Budget*, of the 5th July, 1884, has an article entitled "Professional Privilege," which was reproduced in Vol. 7 of the *Legal News*, page 319, in which reference is made to a judgment then recently delivered by the full court for Crown Cases Reserved, composed of ten judges, in the case of *Rex* v. *Cox and Railton*; and in which it is stated that this judgment will form the leading authority upon the subject. That judgment is now reported in Vol. 14 of the Law Reports, Q. B. Division, p. 153; and it is indeed most interesting, reviewing as it does, the whole prior English jurisprudence on the matter, and concluding with a pronouncement on this important subject, which cannot fail to have great weight. The general holding is well summarized by the reporter, as follows:—"All communications between a solicitor and his client are not privileged from disclosure, but only those passing between them in professional confidence and in the legitimate course of professional employment of the solicitor. Communications made to a solicitor by his client before the commission of a crime for the purpose of being guided or helped in the commission of it, are not privileged from dis-

closure." In that case the solicitor was compelled to declare all that had passed between him and his clients; and the Court unanimously held that the lower Court was right in ordering the witness to tell all he knew. I commend counsel to make a careful study of this case, as to my mind the law therein laid down should have great weight in determining the disposition of this objection. I have no hesitation in saying that I have been convinced by it that my duty is to overrule the objection and order the witness to answer the question. Mr. Justice Stephen, in rendering judgment, said, among other things, "In order that the rule may apply there must be both professional confidence and professional employment; but if the client has a criminal object in view in his communications with his solicitor, one of these elements must necessarily be absent. The client must either conspire with his solicitor or deceive him. If his criminal object is avowed, the client does not consult his adviser professionally, because it cannot be the solicitor's business to further any criminal object." Now, in this case, plaintiff alleges that defendant, the witness, induced his apprentice to abandon his service; and, if he did, then by Art. 5620 of the Revised Statutes of Quebec, he committed an offence for which he was liable to a penalty not exceeding $20. But plaintiff does not sue defendant for the penalty, but under Art. 1053 C. C., for the damages caused to him by defendant's offence. Defendant is a competent witness; but he refuses to say whether he advised the apprentice to leave the service of plaintiff, on the ground that whatever he may have said about the matter to the young man, was said at the confessional, and that he cannot be compelled to reveal that. In virtue of what law, in force in this Province, is a clergyman invested with the right and authority to determine when a civil contract should terminate? And, if he has no such right and authority, then, in virtue of what law can he, as a witness, refuse to say whether he has advised or induced another to terminate such a contract of his own mere motion? It surely cannot be under Art. 275 C. P., which is intended for the benefit of the client and of the churchman, in his professional relations with the attorney or the clergyman. Surely it cannot be said that a clergyman is acting in his professional capacity, as such, when he usurps functions which belong alone to the courts of justice of the country. A clergyman who violates the laws of the land, is equally answerable as is the humblest citizen; and, when he

abdicates the precincts of his sacred duty, and becomes a participator in doing that which the civil law declares to be a wrong, he should be prepared to take the consequences. Any other course would be subversive of law and order, the maintenance of which must surely be desired by this educated and exalted class of the community.

The objection is over-ruled, and it is declared that the privilege does not apply under the circumstances as disclosed by the question itself.

On the 12th February, 1896, the witness re-appeared; and the judge's ruling being read to him, he persisted in his refusal to answer the question as to what he said at the confessional, on the ground that he could not do so. Thereupon he was declared to be in contempt of court; and it was ordered that he be imprisoned until he do answer—which order, it was understood, would not be executed until the witness was in a position to have the matter tested before a higher court.

T. Amyrault, for plaintiff; *E. Racicot*, for defendant.

QUEEN'S BENCH DIVISION.

LONDON, 25 Jan. 1896.

GATES (appellant) v. HIGGINS et al. (respondents). (31 L. J.)

Cruelty to animals—'Domestic animals'—Tame seagull—Cruelty to Animals Acts, 1849 (12 & 13 *Vict. c.* 92), *s.* 29; *and* 1854 (17 & 18 *Vict. c.* 60), *s.* 3.

Case stated by justices of Derbyshire.

An information was laid by the appellant against the respondents for cruelly ill-treating and abusing a certain animal—to wit, a tame seagull.

The seagull had been the property of one Annie Simpson, a photographer, for about three years, and was tame. It was kept in a field adjoining her residence, and, one wing having been pinioned, was unable to fly, but it could get out of the field by going down a river which ran through it. It would go to its owner on being called, and would feed from her hand; and its owner had used it, together with two other similar birds, in her business.

The justices found that the respondent had been guilty of gross cruelty to the bird, but dismissed the information upon the

ground that in point of law the facts did not prove the bird to be a domestic animal within the meaning of 12 & 13 Vict., c. 92 and 17 & 18 Vict., c. 60.

The question for the Court was whether they were right.

Section 29 of the Cruelty to Animals Act, 1849, provides that 'the word "animal" shall be taken to mean any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, goat, dog, cat, or any other domestic animal.'

Section 3 of the Cruelty to Animals Act, 1854, provides that the word 'animal' shall mean any domestic animal whether of the kind or species particularly enumerated in the above section, or of any other kind or species whatever, and whether a quadruped or not.

R. F. Colam, for the appellant, cited *Colam* v. *Pagett*, 53 Law J. Rep. M. C. 64; L. R. 12 Q. B. Div. 66, and *Harper* v. *Marcks*, 63 Law J. Rep. M. C. 167; L. R. (1894) 2 Q. B. 319.

The respondents did not appear.

The COURT (WILLIAMS, J., and WRIGHT, J.) were of opinion that, as it did not appear that the use of the bird in the business of the photographer meant anything more than that the bird had been photographed, the facts did not show that the bird had been sufficiently tamed to serve some purpose for the use of man, and therefore it could not be held to be a domestic animal.

Appeal dismissed.

CROWN CASES RESERVED.

LONDON, 3 Feb., 1896.

REGINA v. RILEY. (31 L. J.)

Before LORD RUSSELL, L.C.J., HAWKINS, J., MATHEW, J., WILLS, J., and WILLIAMS, J.

Criminal law—Causing money to be paid to any person by forged instrument—Forged telegram.

Henry Riley was charged before Kennedy, J., at the Manchester Assizes, on November 7, 1895, with causing money to be paid to a person by virtue of a certain forged instrument, to wit, a forged telegram—that is to say, a forged message purporting to have been delivered at a certain post office for transmission by

telegraph, and to have been transmitted by telegraph to a certain other post office, with intent to defraud.

The defendant pleaded guilty to the charge.

The telegram was sent out from the Manchester Head Post Office to a firm of bookmakers about 3.15 p.m., on June 27. Upon its face the telegram appeared to be addressed by a third person to the firm of bookmakers, and to have been handed in at a branch office in Manchester at 2.40 p.m., and received at the head office at 2.51 p.m. The words of the body of the telegram were 'Three pounds, Lord of Dale.' Lord of the Dale was the name of a horse which ran in and won the Newcastle Handicap at 2.45 p.m. on that day, and the bookmakers accepted the telegram as a bet made by the third person on Lord of the Dale, and accounted to him for 9*l.* in respect thereof. The telegram was a forgery, and was not sent from the branch office, but was dispatched from the head office after the race had been run.

In view of the requirement of section 38 of 24 & 25 Vict., c. 98, that the document forged must be an instrument, the learned judge stated a case for the opinion of the Court.

The questions for the opinion of the Court were whether the indictment could be supported, the only statement of the 'instrument' therein being that it was a 'telegram,' without any averment as to the contents to show that it constituted an instrument within the meaning of the section; and whether, if the indictment could not be so supported, the conviction could, the prisoner having pleaded guilty, be upheld.

The Court held that the word 'instrument' in section 38 of 24 & 25 Vict., c. 98, was not confined to any definite class of legal documents, but was used in its ordinary meaning; that a telegram was an instrument within the meaning of the section; and that the indictment was good and the conviction must be upheld.

Conviction affirmed.

THE MUNROE DOCTRINE.

Lord Salisbury has several times expressed his agreement with the Munroe Doctrine as first enunciated by President Munroe, in his Message of Dec. 2, 1823. It is only against the Cleveland extension of it that he energetically protests. It may, therefore, be of interest to quote the actual words of the Message, which,

it will be seen, offer very slender support for the modern pretensions based thereon :—

"At the proposal of the Russian imperial government, made through the minister of the emperor residing here, full power and instructions have been transmitted to the minister of the United States at St. Petersburg to arrange, by amicable negotiation, the respective rights and interests of the two nations on the north west coast of this continent. A similar proposal has been made by his imperial majesty to the government of Great Britain, which has likewise been acceded to. The Government of the United States has been desirous, by this friendly proceeding, of manifesting the great value which they have invariably attached to the friendship of the emperor, and their solicitude to cultivate the best understanding with his government. In the discussions to which this interest has given rise, and in the arrangements by which they may terminate, the occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent conditions which they have assumed and maintained, are henceforth not to be considered as subjects for colonization by any European power.....We owe it therefore to candor and the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered, and shall not interfere. But with the Governments who have declared their independence and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power, in any other light than as the manifestation of an unfriendly disposition toward the United States."

PENALTIES FOR DISTURBING VESTRY MEETINGS.

It has been long doubted how far a municipal corporation can make bye-laws or regulations imposing penalties on strangers who disturb its meetings. Ordinarily the only remedy is to revoke

the license by which the stranger is allowed to be present, and to order him to withdraw, and if necessary to remove him as a trespasser—a lengthy and undignified proceeding, ending in no appearance before a magistrate, unless the stranger passes beyond the stage of passive resistance. In the metropolis the vestries and district boards have power under the Metropolis Management Act, 1855 (18 & 19 Vict., c. 120), s. 202, to make bye-laws for the regulation of the business and proceedings at their meetings. In many, if not in most cases, these include one in the following form: 'Any stranger misconducting himself or in any way interfering in or with or interrupting the business of the vestry shall be requested by the chairman to withdraw, and shall, if necessary, be removed.' But this bye-law is open to the objection already indicated, that no penalty is provided for the interference or for resistance to the order to withdraw, and inasmuch as the recent increase of interest in London municipal politics has led to a large attendance of persons not always able to realise that they are not to take part in debate by assent, dissent, or speech, the necessity of spying and ejecting strangers has led to consideration as to more effectual modes of coping with turbulent constituents. The late Home Secretary, however, was induced to sanction a bye-law imposing a penalty on such strangers, which is, we believe, in the following form: 'Any person, not being a vestryman, who shall be guilty of disorderly conduct, or shall interfere with or interrupt the business or proceedings of the vestry, and who shall not withdraw when called upon by the chairman so to do, shall be liable on summary conviction to a penalty not exceeding 40s.' And the present Home Secretary is, we understand, following on the lines of his predecessor with other cases. But it remains to be seen whether the approval of the Home Secretary will satisfy the Courts of the validity of the bye-law, and how the magistrates will construe its somewhat elaborate provisions, which appear to be conditions precedent to a summary conviction of a disorderly and recalcitrant stranger. It is to be observed that section 279 of the Act of 1855 gives authority to vestry officials and constables to arrest persons, whose name and address is not known, offending against bye-laws.—*Law Journal* (*London*).

GENERAL NOTES.

A LOST CHEQUE.—In the City of London Court, before Mr. Commissioner Kerr, *Anglin* v. *Williamson* was heard. The plaintiff sought to recover the sum of 5*l.* for goods supplied to defendant, and for change given him out of a cheque which was lost. The plaintiff sold some goods to the defendant on July 6 last, and he received by way of payment a cheque for 5*l.* The plaintiff gave the defendant the change out of the cheque, but, while going to his bankers to pay in the cheque with others, he lost it in the street. He asked the defendant two days afterwards to stop payment of the cheque, and the defendant readily assented. A few days went by, and then the defendant found that he had stopped the wrong cheque. As the plaintiff had never received the proceeds of the cheque, he now sued the defendant for the value of the goods supplied and the change handed him out of the cheque. The defendant's case was that the cheque had been given to the plaintiff, and that after he lost it someone went to the bank and cashed it. The defendant, therefore, said he could not be required to pay the cheque again, and that the plaintiff must put up with the loss, which had been brought about by his own act, unfortunate as it was. The case had been adjourned for further evidence to be given by the plaintiff that the cheque had never in fact passed through the defendant's bank; but Mr. Commissioner Kerr now nonsuited the plaintiff, and ordered him to pay the defendant's costs. The plaintiff must put up with the loss of the money. The defendant was not obliged even to have tried to stop the cheque as he had done.

THE IRISH BENCH.—Ireland has a very large judicial staff in proportion to population. There is the Chancery Division with the Lord Chancellor at £8000, the Master of the Rolls at £4000, a Vice Chancellor at £4000, and a land judge, £3500; Queen's Bench Division, Lord Chief Justice, £5000, and six judges at £3500 each. The Exchequer Division, the Chief Baron, £4600, and two judges, at £3800 each. Probate Court judge at £3500. Court of Bankruptcy, two judges at £2000 each. Land Commission, one judicial commissioner at £3500, with two commissioners at £3000, and two at £2000 each. The Attorney General and Solicitor-General receive £5000 and £2000 respectively. There are also two Lord Justices of Appeal at £4000 each. Altogether the machinery of the Irish bench costs about £89,000 per annum.

A Formidable Juror.—A juror, according to the *Pall Mall Gazette*, had helped satisfactorily to find the verdict at an inquest held at the London Hospital, but he then lifted up his voice and demanded to be told why he had been taken from his wife and children to come there. Mr. Wynne Baxter did not tell him that it was an Englishman's proud prerogative. He just asked his officer, and discovered that the protesting juror had actually volunteered to serve as a substitute for another man. But the juror arose once more, and, waving his stick, insisted that they should not bring him there. If they did, Mr. Baxter would have some dynamite put under him—"perhaps," he added, by a prudent afterthought. Then the coroner discovered that he had done exactly the same thing once before, and gave orders that he was not to be admitted to the Court in future. Now this was exactly what the juror had been asking for, and a fellow-juror, feeling that something more was required, went up to the man outside and told him that he was lucky not to have been committed. But the coroner knew what he was about; for the injured juror explained that the slightest movement on the part of a policeman would have been the signal for him to tear the Court up. "His fellow-jurors expressed disgust at his conduct"; but this was harmless, and did not call for any tearing up.

A Peculiar Litigation.—It seems that one of William Penn's descendants has been at law with the city of Easton, Penn. The great Quaker deeded to that community a site for a Court-house. Why a peaceable and law-shunning Quaker should have done this we cannot imagine, any more than we could imagine why he should have deeded them a site for an armoury; but he did. Many years ago the Court-house was torn down, and the site was converted into a public park, and it is reported that the Court has held that this worked a reverter of the land. Probably William would not have insisted on his rights in the premises.—*Green Bag.*

An Incident of the Demers Trial.—Some idea of the congested state of the Court of Queen's Bench during the Demers case, says a daily contemporary, may be gathered from what occurred yesterday afternoon. A lady, finding standing room almost impossible, calmly walked up to the Bench where the presiding judge was seated, and dropped with a sigh of relief into one of the easy chairs kept for the judges. For a moment,

and only a moment, the court officials were thunderstruck, and then half a dozen constables tumbled over each other in their anxiety to inform the lady that her sex had not yet been elevated to the woolsack.

CONSENT IN LARCENY.—The question, what constitutes consent in larceny, has again been passed upon in Great Britain. The answer has been in the air since the cases of *Regina* v. *Ashwell*, 55 Law J. Rep. M. C. 65 ; L. R. (1885) 16 Q. B. 190, and *Regina* v. *Flowers*, 56 Law J. Rep. M. C. 179 ; L. R. (1886) 16 Q. B. 643. In the first of these cases B. gave A. a sovereign, both supposing it a shilling. When A. discovered the mistake he kept the money, was convicted of larceny, and by an evenly-divided Court this conviction was affirmed. Less than three months later the same Court, on substantially the same facts, unanimously quashed a similar conviction in *Regina* v. *Flowers*. These decisions were reviewed in a discussion of Consent in the Criminal Law, by Professor J. H. Beale, Jr., 8 *Harvard Law Review*, 317, and have elsewhere excited considerable controversy ; so that the recent case of *Regina* v. *Hehir*, 29 Ir. L. T. 323, which settles the law for Ireland, is of no little interest. A 10*l.* note was mistaken for a 1*l.* one under circumstances similar to those of *Regina* v. *Ashwell*, and by a vote of five to four the latter case was expressly disregarded, and a conviction quashed. This decision, coupled with *Regina* v. *Flowers*, which, however, assumed to distinguish *Regina* v. *Ashwell*, renders it very doubtful whether *Regina* v. *Ashwell* would be followed even in England. The Irish Court (says the *Harvard Law Review*) certainly seems to do less violence to any logical theory of consent. But our contemporary must not forget that the English Court was equally divided in opinion in *Regina* v. *Ashwell*.—*Law Journal.*

UNIVERSITY EDUCATION.—"For the highest success at the English bar," says one writer, "a university education is regarded as essential." What, then, about the Lord Chief Justice of England, who was a solicitor first and a barrister afterward? In the ordinary sense of the term, Lord Russell had no university education. And what, again, about Sir Edward Clarke, of whom the same may be said? A university education affords advantages to members of both branches of the profession, but to talk about it being essential either for one or the other is simply silly." —*The Brief*, (England).