THE

LEGAL NEWS.

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CURRENT TOPICS AND CASES.

The *Cosmopolitan* magazine for September contains a clear and graphic account of a celebrated case which created an extraordinary sensation more than forty years ago—the murder of Dr. Parkman by Professor Webster. The latter was a professor in the medical school of Harvard College. Dr. Parkman was an uncle of the late Francis Parkman, the well known historian. A short account of the trial will be found in volume 15 of the *Legal News*, p. 363. The case is of great interest, the conviction, after a trial which lasted eleven days, being based solely upon circumstantial evidence; but the proof was so complete as to leave no room for reasonable doubt, and Webster was convicted and executed. Before his execution he admitted that he had killed Parkman in the medical school, but he asserted that he had no intention of killing him; that, being angered by taunts and threats, he struck him on the head with a thick piece of grape vine which was at hand, and that death unexpectedly resulted. This statement was not quite in accord with the evidence, which showed that Parkman called at the medical school by appointment to receive a sum due to him by Webster; that Webster when making this appointment had no means of dis-

charging the debt, and that he took possession of the notes which were the proof of the debt.

There are two important features apparent in the case. The first is the fallibility of testimony, even that given in good faith and by disinterested persons. It is perfectly certain that Dr. Parkman never left the medical school building alive after his visit on the 23rd November, 1849. Webster's confession, as well as the finding of various parts of the body on the premises, left no doubt on this point. Yet no less than six witnesses testified that they saw Dr. Parkman in different parts of Boston at sundry times between 2.15 and 5 p.m.,—the murder having occurred at 1.30 p.m. Two of these witnesses fixed the date and time when they saw him by particular circumstances as to which they were corroborated by other persons with whom they had business on the day in question. Such an array of evidence might well have created doubt in the minds of the jury, and it shows how easily a person may be mistaken, after a very brief interval, as to the day or hour when he met or saw another.

Another notable feature of the case was Webster's perfect coolness immediately after the murder, and while engaged in destroying the various parts of the body, which he had cut into many pieces. The very evening following the murder he made a social visit to a friend, accompanied by his wife, and his demeanor and conversation were easy and natural, and without the slightest trace of perturbation. On the following day he lectured as usual, and until the discovery of portions of Dr. Parkman's body in a vault in the medical school, Webster conversed freely with various persons about the mysterious disappearance of his victim.

The early closing by-law which the City Council of Montreal is asked to adopt, whatever may be its merits,

seems to strain to the uttermost the powers ordinarily supposed to be vested in municipal bodies; in fact, it seems to trench closely on the general powers intrusted by the constitutional act to the Federal parliament. There are various kinds of retail business in which the evening is probably the most profitable part of the day, but whether this be so or not, it seems a very arbitrary act to say to a tradesman that he shall not keep his shop open after a certain hour, even if he and his assistants are willing and anxious to remain. Such a proceeding cannot be justified on any ground of police regulation, and it is obvious that so many exceptions will have to be made that the law will soon be ineffective. Strangely enough, while peaceful and inoffensive occupations are thus threatened with serious interference, the Council recently extended the running hours of the street railway, and for the convenience of a limited number of citizens, but to the great discomfort and annoyance of the majority, the electric cars pursue their noisy course not only up to midnight, but until two o'clock in the morning.

COURT FOR CROWN CASES RESERVED.

LONDON, 5 April, 1895.

Before LORD RUSSELL, C.J., HAWKINS, CAVE, GRANTHAM and LAWRANCE, JJ.

REGINA v. BAKER. (30 L.J.)

Criminal law—Perjury—Material statement.

Case stated for the consideration of the Court for Crown Cases Reserved.

The defendant, Henry Baker, was tried before His Honour Judge Chalmers, sitting as a commissioner of assize, on February 9, 1895, at the Glamorganshire Assizes, on a charge of wilful and corrupt perjury. The substance of the indictment was as follows—namely: That on December 18, 1894, at the petty sessions held at Cardiff, before the stipendiary magistrate, he (the said Henry Baker) was charged with the offence of selling beer without a license, and, having been duly sworn, deposed

that he had never authorized the plea of guilty to be put in to a previous charge of selling beer without a license, contrary to section 3 of the Licensing Act, 1872, on November 6, 1894, and that he had not authorised his solicitor, Thomas Henry Belcher, to put in the plea of guilty to the said charge, even by an indirect authority, and that he had no knowledge that the said Thomas Henry Belcher was going to plead guilty on his behalf, and that it was against his wish and will that the said plea of guilty was put in. It was proved before the learned commissioner that at the hearing before the stipendiary magistrate the said Henry Baker swore as follows—namely, that he had been previously convicted of selling beer without a license on November 6, 1894, and that the conviction was in respect of the same premises, and that he had never authorised the plea of guilty to be put in on November 6. Evidence was called on behalf of the Crown to show that the said Henry Baker, after full explanation of the matter, had authorised his solicitor, Thomas Henry Belcher, to plead guilty on his behalf, and that when he was informed of what had been done he expressed himself as perfectly satisfied with the result.

At the conclusion of the case for the Crown, *Arthur Lewis*, for the defendant, took the objection that, even if the statements made by the said Henry Baker were knowingly false, they could not amount to perjury, because they were not material to the issues then pending before the stipendiary magistrate. The said statements could not be material on (*inter alia*) the following grounds: (*a*) That as the defendant, the said Henry Baker, had admitted his previous conviction, and had not appealed therefrom, it was immaterial to the then pending inquiry whether the previous plea of guilty had been put in by the defendant's consent or not; (*b*) that the previous conviction could only become material when the stipendiary magistrate decided to convict in the then pending proceedings, and that as a fact the proceedings had been adjourned to await the result of the prosecution for perjury: (*c*) that a previous conviction only affected the amount of punishment to be awarded by a magistrate, and not any issue to be determined by him; and, further, that the magistrate could only take cognizance of the fact of the previous conviction, and not of the circumstances under which it was obtained. The learned commissioner held that the defendant, having tendered himself as a witness, was properly examined

at that stage of the proceedings concerning the circumstances of his previous conviction, and that his answers were immaterial, inasmuch as in the event of a conviction the facts deposed to would be taken into consideration by the magistrate in the ultimate determination of the case. The jury found the defendant guilty. The question for the opinion of the Court was whether the above statements of the defendant were material to the issues then pending before the stipendiary magistrate.

C. J. Jackson, upon behalf of the prosecution, was not called upon.

The defendant did not appear.

The Court held that the statements were material. The denial of that which was true would affect the defendant's credit as a witness, and there was authority to show that when a man was examined as a witness, statements made by him that would affect his credit were material. Authorities upon the point were *Regina* v. *Overton*, C. & Mar. 655; *Regina* v. *Lavey*, 3 C. & K. 26; and *Regina* v. *Gibbon*, 31 Law J. Rep. M. C. 98; L. & C. 109 (*sub. nom. Regina* v. *Gibbons*). The evidence was, therefore, material.

Conviction affirmed.

CHANCERY DIVISION.

LONDON, 23 July, 1893.

Before CHITTY, J.

CROSS v. THE LONDON ANTI-VIVISECTION SOCIETY. (30 L.J.)

Charity—Societies for the suppression of vivisection.

Under a power of appointing personalty 'for some charitable purpose,' the donee of the power appointed to two societies the object of which was, substantially, the total suppression of the practice of vivisection. On a summons to determine whether they were entitled to take,

W. D. Rawlins, for the societies, cited the cases of *In re Douglas; Obert* v. *Barrow*, 56 Law J. Rep. Chanc. 913; L. R. 35 Chanc. Div. 472, where the question whether such societies were good objects for a charitable bequest was left open by the Court of Appeal, and *Armstrong* v. *Reeves*, 25 L. R. (Ir.) 325, where the question had been decided affirmatively.

H. Fellows, contra, argued that the human element in such societies was too remote to bring them within the meaning of 'charity.'

CHITTY, J., held that the purpose of the societies, whether they were right or wrong in the opinions they held, was charitable in the legal sense of the term. Their intention was to benefit the community. Whether, if they achieved their object, the community would, in fact, be benefited, was a question upon which the Court was not required to express an opinion.

COURT OF APPEAL.

London, 9th Aug., 1895.

Before LINDLEY, LOPES, RIGBY, L.JJ.

IN RE G. F. BROWN. (30 L. J.)

Lunatic resident out of the jurisdiction—Master in lunacy of Victoria appointed guardian and receiver—Transfer of stock —'Vested'—Lunacy Act, 1890 (53 *Vict. c.* 5), *s.* 134.

Gertrude Emily Brown had been found a lunatic in the colony of Victoria, where she resided, and the master in lunacy of that colony had been appointed guardian of her person and receiver of her estate, and the care, protection, and management of her property had been remitted to him. By the Colonial Lunacy Act the master was empowered to undertake the management of the estates of all lunatics, and to take possession of and administer their property; but the property was not vested in the master, nor did the Act provide for the appointment of a committee.

This was a petition by the master, by his attorney in this country, for an order that English stocks belonging to the lunatic should be transferred and the dividends paid to him.

Their LORDSHIPS made the order. They said that section 134 of the Lunacy Act, 1890, gave the Court a discretion, and that it applied to this case, although the stocks were not vested in the master in the strict legal sense.

London, 7th Aug., 1895.

Before LINDLEY, LOPES, RIGBY, L.JJ.

RUSSELL v. RUSSELL. (30 L. J.)

Restitution of conjugal rights—Judicial separation—Cruelty.

Appeal from a decision of Pollock, B., sitting as a judge of the Probate, Divorce, and Admiralty Division.

The Countess Russell in 1890 commenced a suit against the

earl for judicial separation, on the grounds of cruelty and sodomy. That suit was dismissed, but the countess continued to reiterate the charges of sodomy. This action was brought by her for restitution of conjugal rights. The earl, by counterclaim, asked for a decree of judicial separation on the ground of the countess's cruelty in making the above charges, well knowing them to be false; he also set up as a defence that the action was not brought *bona fide* with the desire of resuming cohabitation, but for the purpose of founding proceedings under the Matrimonial Causes Act, 1884 (47 & 48 Vict. c. 68), for alimony and judicial separation.

Pollock, B., who heard the case with a special jury, left it to the jury to say whether the countess had been guilty of cruelty, and whether she had acted *bona fide*. The jury answered the former question in the affirmative, and the latter in the negative; and the learned baron dismissed the wife's petition and made a decree of judicial separation as asked by the counterclaim.

Lady Russell appealed.

LINDLEY, L.J., and LOPES, L.J., held that 'there must be danger to life, limb, or health, bodily or mental, or a reasonable apprehension of it, to constitute legal cruelty,' and that, no such danger having been proved, the earl's claim for judicial separation failed. They held however, that since the passing of the Matrimonial Causes Act, 1884, the Court was not bound to decree restitution of conjugal rights in all cases at the instance of a party who had successfully resisted a claim for judicial separation, or *vice versa*, and that in the present case neither restitution of conjugal rights nor judicial separation ought to be ordered.

RIGBY, L.J., while agreeing with the other members of the Court in all other respects, differed from them in thinking that the countess had been guilty of legal cruelty entitling her husband to a decree for judicial separation.

Appeal allowed in part, petition and counterclaim dismissed.

CONVICTS AS MEMBERS OF PARLIAMENT.

The return of John Daly for the City of Limerick is worthy of note, and will raise an interesting question of constitutional law. Daly was arrested when in possession of dynamite bombs. He was tried with J. F. Egan and others at the Warwick Assizes of 1884, convicted of treason felony, and sentenced to penal ser-

vitude for life. He is still in prison, and the pardon which was granted by the late Government to some persons who had the misfortune to be convicted of similar offences has not been extended to his case. It is, no doubt, as a mark of sympathy for this exceptional treatment that the electors of Limerick have returned him without opposition to Parliament. It was not in their power to avail themselves of his services, for, besides the prior claim for his personal attendance elsewhere, he is not eligible to sit. The Act of 1870, which abolished attainder for felony, deals with the matter in express terms. No person thereafter convicted and sentenced for a term exceeding twelve months' imprisonment, unless he shall have received a free pardon within two months of sentence, or shall have suffered the punishment, is to be capable of being elected, or sitting or voting as a member of either House of Parliament. But the disqualification is much older than the Felony Act. Lord Coke states it, and gives this reason, 'for concerning the election of two knights, the words of the writ be, "duos milites gladiis cinctos magis idoneos, et discretos eligi fac."' No doubt we nowadays disregard the injunction in other matters besides the knightly belt, but the case is not one where the law ceases with the reason of it.

Several instances of the disqualification proving effective have occurred in recent times. We are indebted to the different impressions made by certain classes of conduct upon Irish electors and on Her Majesty's judges for all of them.

In 1870 Mr. O'Donovan Rossa, who had lately fallen within the descriptions of the Treason Felony Act, was returned to Parliament. It was argued that, his sentence involving no attainder, he could sit, but the House of Commons otherwise determined.

Five years later Mr. John Mitchell, who had been sentenced to fourteen years' transportation, and had spent more than that time in evading recapture after an escape from prison, was elected to the House. In his case a new writ was issued, and there was a fresh election. Upon this Mitchell stood again and succeeded in the contest. A petition was lodged against his return on the ground that it was no more effective than if the sheriff had returned the name of a woman, and that, his opponent having given ample notice that votes for Mitchell would be thrown away, he ought to have been returned notwithstanding

the state of the poll. Pending the proceedings Mitchell died; but another petition was allowed to be presented, and upon it the Court (3 O'Malley and Hardcastle, 37) directed the return to be amended, and the defeated candidate accordingly proceeded to Parliament to represent his own and Mitchell's supporters.

The last case is that of Mr. Michael Davitt. Like Mr. Daly in the present instance he was actually serving his time when elected. It was in 1882, and the Liberal Government moved a resolution that he was incapable to sit. Mr. Joseph Cowen suggested as an amendment an address to Her Majesty, praying for a free pardon for Mr. Davitt. What good that would have done, since more than two months had elapsed from the conviction, does not appear, but the Speaker evaded the difficulty by ruling the suggestion out of order. No writ was issued at the time, as it was thought proper to leave the defeated candidate to petition upon the precedent of Mitchell's case, and claim the seat, if he thought fit to do so.

In the present case, there having been no opposition, and no other candidate nominated, it is plain that a new writ must issue, or that the City of Limerick must remain unrepresented until such time as its electors cast at least one vote for, or at all events consent to nominate, a candidate who is eligible as eligibility is understood at St. Stephen's.—*Law Journal (London.)*

EXTERRITORIALITY OF ORIENTALS IN ENGLAND.

That the Oriental use of the privilege of exterritoriality is extensive and peculiar, is a fact of which London citizens are becoming increasingly aware. The privilege of exemption from the jurisdiction of English courts has been tested by actual experience for only thirteen or fourteen years, as far as the bulk of our Eastern visitors are concerned: the Chinese Embassy being established in 1878. Before that date, the fiction—consecrated in England by the statute of Queen Anne—that foreigners attached to an embassy were exempt from the local jurisdiction, was dying a natural death, owing to the fact that few European ambassadors felt called upon to claim the exemption; wisely preferring, instead, to keep out of embarrassing situations which might lead to legal dispute. But now, with the oblique light shed upon it by the Oriental mind, exterritoriality is rapidly becoming a license to seduce, a charter to kill if not to murder,

and a monopoly to commit suicide without the inconveniences of a coroner's inquiry in prospect, besides furnishing a protection for the more every-day pastime of incurring debts and refusing to pay. The Chinese and Japanese embassies have developed with perturbing facility into a veritable Alsatia, wherein the law applicable to common Englishmen may be contemned.

A very flagrant instance of exterritoriality *in pessimis* occurred some months ago. A servant of the Japanese minister seduced an unhappy English girl, and then refused to support her child, or, indeed, to acknowledge in any way the jurisdiction of English courts to adjudicate on his conduct. The general public was surprised in a passing way about the baseness to which diplomatic privilege could be turned. That surprise was not shared by lawyers, who are obliged to have a longer memory for cases, and so have been led to catch the perspective of the Oriental tendency.

The view of our Eastern visitors appears to be that perfect license to do what they like, free from legal consequences, would be conferred in pure waste, and perhaps would become atrophied from want of exercise, if it were not made use of. Accordingly, the Chinese delegates, who condescended in 1878 to come to London in the interests of the Middle Kingdom, have managed, in the brief space which has elapsed, to exclude the coroner twice. The latter troublesome barbarian wanted to decide on the causes of two violent deaths, one, that of a child, occurring within the precincts of the Chinese functionaries' house, the other, alleged to be a case of suicide, occurring outside the sacred enclosure.

Another illustration of the strange uses of the privilege possible to the Asiatic, is furnished by the remarkable case of the "Sultan" of Johore. This Malay chief, on whom the British Government had not then conferred the title of "Sultan," came to London in 1885, to enter into an agreement with the Foreign Office as to his territory near the Straits Settlements. The not very important negotiation was concluded on December 11, 1885; and in reward for placing the supervision over his local affairs in the hands of the British Government, the chief was to be supplied with various things, including coinage from the Straits Settlements, and the title of Sultan. Meanwhile, during the arrangement of these details, he beguiled his hours of leisure by assuming an English name, and entering into intimate rela-

tions with an English woman. When recently sued in an English court, he impeached the jurisdiction, and claimed exterritoriality as a foreign "sovereign." The Court of Appeal had to allow this preposterous contention, as an English statute makes the certificate of the Foreign Office, that the potentate is a "sovereign," conclusive in the courts. It is conceivable that German jurists would feel thankful for the creation of a similar beneficent agency for the interpretation of "sovereignty"; but to the ordinary mind a *reductio ad absurdum* like that furnished in the Johore case seems rather an argument against the present statute, and against entrusting to a non-legal official like a Secretary of State a matter properly for judicial decision. Even in the face of the statute, the court would have been within its right in holding the privilege of exterritoriality waived by the conduct of the defendant. This precise point about the exterritoriality of the "Sultan" of Johore has been repeatedly before the British Court of the Straits Settlement. That court, being much nearer to the territory of the potentate, had no difficulty whatever in deciding on the "sovereignty" contention in a precisely contrary way. It seems, in fact, to be a hereditary device of Sultans of Johore to incur liabilities, sometimes on bills of exchange, and then to plead exterritoriality; but in the Straits Settlements the pleasing fiction is brushed aside.

Another case, though in connection with a minor matter, deserves notice. The executor of the late Turkish ambassador, Musmurus Pasha, sued for the recovery of bonds admitted to be the property of the ambassador, and tried to prevent the defendants from raising a counter-claim for £3,000, due as far back as 1873. The court, in its decision of the 22nd November, found for the defendants, holding that the exterritoriality of the ambassador having prevented his being sued in England, also prevented the Statute of Limitations from running against the defendants. The inconvenience arising from the fiction in this case was apparent; the defendants' claim could not be decided during twenty years, although the ambassador was in England the whole period.

The time seems rapidly approaching when some international agreement on the subject will become inevitable. The drift of opinion among leading writers on international law is setting steadily in that direction, and the tendency will be rendered irresistible by the increasing number of instances of abuse of ex-

territoriality by the Oriental additions to the ranks of diplomacy.

Writers of the Italian school of international law have for many years past advocated the abolition of the privilege of exterritoriality, root and branch. Jurists, such as Esperson and Fiore in Italy, Laurent in Belgium, Pintheiro-Ferreira in France, maintain that the privilege is really an antiquated survival from a radically different state of society. When judges were removable in England and the continent at the pleasure of the Crown, it was reasonable enough that ambassadors should not be subject to a legal process which might very probably be used to hamper them in the discharge of their functions. Again, there is much truth in Esperson's ascription of the exorbitant extent of the privilege to "le orgogliose pretese dei sovrani per diritto divino." Not merely the despot, but his servant, and his servant's servant, were above the law.

The original utility of the privilege has, in fact, been greatly diminished, if not altogether superseded, by change in the position of the tribunals, and in the policy of executives, as well as in the general conditions of European society. Some change seems required, if not in the way of abolition, at least of modification of the extent of the privilege. Laurent sums up the question: "Sans doute, l'ambassadeur doit être libre; mais faut-il pour cela qu'il soit hors de la loi et au-dessus de la loi? Pour être libre, il n'est point nécessaire qu'il puisse contracter des debtes sans les payer, qu'il puisse assassiner et adultérer à son aise."

Even those who uphold the privilege of exterritoriality admit that it should be formally abolished as regards domestic servants. Vercamer points out that the extension of the privilege to servants really originated in the jurisdiction which the ambassador formerly exercised over his domestics; when necessarily any aggrieved person had a prompt remedy by appeal to the ambassador's jurisdiction. It is on record that Sully, the French ambassador in London in 1603, tried for murder one of his domestics, and on conviction, gave him up to the local authorities. English courts have, however, long assumed jurisdiction over domestics of an embassy in criminal cases. There is no valid reason why they should not in civil suits also. Apart from that, it is unanimously held by all recent authorities that it is the ambassador's duty to surrender the delinquent domestic on requisition, and to allow the local courts to do justice.

It is also to be remembered that the extent to which the privilege is pushed at the present day, especially by our Asiatic visitors, is not merely unsustained by any settled practice under international law, and denounced by modern authorities, but has some tolerably ancient precedents against it. In 1772, under the *ancien régime*, the Baron von Wrech. a German envoy who contracted debts in Paris, was refused his passport until his master, the Landgrave of Hesse-Cassel, had promised to pay his debts. The memoire on this subject of the Duc d'Aiguillon, minister of Louis XV., given in Marten's "Causes Célèbres," is an admirable example of the common-sense way of regarding such questions, and may be recommended to the attention of the Foreign Office.

When, in this age of general international conventions, a conference is held on exterritoriality, the least to be hoped is that the privilege may be abolished in regard to all persons other than purely political officials. It should under no circumstances be held applicable to domestics. Even political officials should be held to waive their privilege if they voluntarily enter into commercial transactions, and especially if they incur legal obligations through seduction, or other quasi criminal acts. The right to investigate into all cases of violent death should not be with held from local authorities.

The case of Oriental embassies, as has been shown, stands by itself. The exceeding extent of the modern privilege of exterritoriality arises from the fact that Europeans have not abused it. There is no such basis of experience in the case of the Oriental embassies. Any experience there is points unmistakably to the probability of great inconveniences from according to our Asiatic visitors the historic privileges of ambassadors of the community of Europe.—*M. J. F. in "Green Bag."*

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*THE PRACTICE OF THE EXCHEQUER COURT OF CANADA.**

To the Editor of the LEGAL NEWS:

SIR,—The profession has felt the need of a work expository of the practice of this court for a long time, and Mr. Audette may be looked upon as a genuine benefactor by those whose business compels them to thread the labyrinthine recesses of prerogative law. He modestly expresses the hope in his Preface that his book may prove "a good working tool for the pro-

fession," and that is just what it is—a sort of combination outfit for the legal miner whereby he is afforded a pick to lay bare the lode of precedent and a lamp by the rays of which he is enabled to see what is valueless and what is profitable for his brief. The statutes appertaining to the jurisdiction of the court, as well as the Rules of Practice, are fully annotated, and a carefully written introduction gives a store of information concerning the court and its practice.

* By Louis Arthur Audette, LL.B., Advocate, Registrar of the Court. Ottawa: Thoburn & Co.

GENERAL NOTES.

A Brief for Both Sides.—Many a successful barrister has received rival retainers, but to Sugden belongs the unique distinction of having accepted briefs and gone into Court for both sides. It happened in the Vice-Chancellor of England's Court. Sugden had taken a brief on each side of a case without knowing it. Horne, who opened on one side, and was followed by another lawyer, was to be answered by Sugden, but he, having got hold of the wrong brief, spoke the same way as Horne. The Vice-Chancellor said coolly, 'Mr. Sugden is with you?' 'Sir,' said Horne, 'his argument is with us, but he is engaged on the other side.' Finding himself in a scrape, Sugden said 'it was true he held a brief for the other party, but for no client would he ever argue against what he knew to be a clear rule of law.' However, the Court decided against them all.

Reminiscences.—Sir Frederick Pollock, Chief Baron of the English Court of the Exchequer, like a once renowned justice of the United States Supreme Court, took a nap pretty regularly about mid-day. His waking was comical. For when his 'forty winks' ended he would start to seize a pen, and with imperturbable gravity say to the arguing counsel, 'What page was your last citation?' The harmless deceit was humoured by the Bar, and only once did it provoke tartness. This came when an old serjeant retorted, 'Did your lordship refer to the last citation made before your lordship gave Somnus a new trial, or the citation I made when your lordship produced a gap in my argument.' Nothing nettled, Baron Pollock imperturbably answered, 'The one immediately succeeding the gap.' Upon another occasion a young barrister from a provincial circuit about to make a sug-

gestion regarding an infant heir remarked, addressing Sir Frederick, 'I assume that your lordship is a married man and'—but before he concluded the sentence the Chief Baron, with a merry twinkle in his eye at the assembled Bar, responded: 'It would not be a violent assumption, for I have five great-grandchildren, and the total number of my descendants is eighty-five.'—*Green Bag.*

PRISONERS AS WITNESSES.—The Lord Chief Justice, at Cambridge Assizes, in *Regina* v. *Gawthorp*, gave a ruling which is of some importance with respect to the cross-examination of prisoners giving evidence on their own behalf. The defendant was charged with rape, and elected to give evidence. In chief he totally denied the charge. On cross-examination he admitted he was near the place where the crime was said to have been committed, and saw one of the witnesses for the prosecution who had sworn to seeing him there. He was also cross-examined as to a previous conviction of indecent assault. It has been usually regarded as undesirable or improper to cross-examine a prisoner as to previous convictions or as to credit unless evidence is tendered as to good character. But the Lord Chief Justice ruled that the proper limits of cross-examination had not been exceeded, and that a defendant who tendered himself as a witness must be subject to cross-examination just the same as any other witness, and this he wished to have clearly understood as the settled practice. In other words, the hesitation which the Court at first had as to the cross-examination of defendants may now be regarded as overcome.—*Law Journal.*

COURT OF CRIMINAL APPEAL.—Since the Lord Chief Justice stated, in his letter to Sir Henry James, that five judges were opposed to the establishment of a Court of Criminal Appeal, an attempt has been made to discover the identity of these occupants of the Bench. Mr. Justice Hawkins was known to be one of the number; Mr. Justice Grantham has just made it clear that he is another. He recently stated that the Home Secretary interfered last year with as many as 420 sentences. That these sentences were dealt with in a manner satisfactory to the public shows that the Home Office is not so incompetent to discharge this part of its functions as many persons represent it to be.—*Ib.*

A CASE IN NORTH CAROLINA.—It seems, from recent decisions in North Carolina, that, if one is well advised of certain geo-

graphical conditions, and takes advantage of them, he may slay his foe and escape all punishment. A gentleman standing in North Carolina maliciously shot and killed another who was just across the boundary in Tennessee. He was tried in North Carolina for murder, and acquitted on the ground that the crime was committed in Tennessee, and the North Carolina Court had no jurisdiction (*The State* v. *Hall*, 114 N. C. 909; 41 Am. St. Rep. 822). Then the Tennessee authorities tried to lay hold of him and bring him thither for trial by extradition proceedings; but the North Carolina Court held that he could not be extradited, because he was not 'a fugitive from justice.' The Court cited Alabama, Massachusetts, and Ohio decisions in point. Two judges, however, dissented from this conclusion, and argued that the offender was constructively a fugitive.

LAWYERS IN PARLIAMENT.—The *London Law Journal* says: "The total number of lawyers in the House of Commons is 150, which is considerably in excess of the number in previous Parliaments. The legal profession forms, therefore, nearly one-fourth of the whole legislative body. A contemporary has complained of the predominance of the legal profession in the House of Commons; but the matter is entirely one for the electorate, whose choice of lawyers simply proves that those who are concerned with the administration of the law are best qualified to serve as legislators."

PRACTISING PEERS.—According to a late doctrine, it was contrary to etiquette for a Privy Councillor to practise at the Bar, but this usage was disregarded when Sir Henry James became Right Honourable. Other conventional restrictions have been abolished. Macaulay tells how the first Duke of Bedford long refused to exchange his earldom for a dukedom, on the ground that 'an earl who had a numerous family might send one son to the Temple and another to a counting-house in the city; but the sons of a duke were all lords, and a lord could not make his bread at the Bar or on 'Change.' There are lords at the Bar now, a son of the present Prime Minister among them, and not only lords by courtesy, but at least one Peer of Ireland and one Peer of the United Kingdom who are in practice, more or less extensively. —*World.*