THE

LEGAL NEWS.

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CURRENT TOPICS AND CASES.

When, on the 22nd of June, a vote of $1000 was asked in the House of Commons, Ottawa, to pay the expenses of Chief Justice Strong's visit to England, for the purpose of taking his seat as a member of the Judicial Committee of the Privy Council, Mr. Davies was asked whether the Chief Justice would be able to sit on appeals from the Supreme Court of Canada. He replied that he knew nothing in the practice of the Privy Council to prevent it, but he did not give a positive opinion. "The Chief Justice's duties in London," he added, "would not interfere with his work in the Supreme Court, because the Privy Council sat in July, when Canadian Courts took long vacation." Even if there be nothing in the practice of the Privy Council to prevent it, we can hardly think that Sir Samuel Strong would adopt a course so directly at variance with the law and usage of the country he represents. The appeal from the Supreme Court is only accorded as an act of grace, and it would certainly be robbed of more than half of its prestige if the Chief Justice were to take part in the re-hearing of a case in which he had already expressed an opinion. As regards

the Province of Quebec, the learned Chief Justice seems to be to some extent in a dilemma. By all usage and tradition he cannot sit in appeal upon his own judgment, or the judgment of his Court, where special leave to appeal is accorded. On the other hand, where the amount involved is large enough, a direct appeal from the Court of Appeal or Review lies to the Judicial Committee. But should he sit even in these cases? If the party has chosen to incur the greater expense of an appeal to England, it may be suspected that it is because he has more confidence in the Judicial Committee than in the Supreme Court. Having incurred this additional expense, in the exercise of his undoubted right, will he be satisfied to have his case heard by the Chief Justice of the Court which he made option to pass by? At the date of writing, the cable has informed us that the Chief Justice has in fact sat in one Quebec appeal of the class indicated, that is to say, a direct appeal from the Quebec court.

McGill University is to have a Dean of the Law Faculty, as well as the Principal of the University itself, from Scotland. It might seem at first sight that after an existence of half a century, some graduate of the Faculty could be found qualified for this position. It might also be supposed that the system of law in force in this Province is sufficiently peculiar to make it desirable that a Canadian lawyer should fill the position. Scotchmen, however, have remarkable adaptability. They have filled with great credit seats on the Judicial Committee of the Privy Council, and Mr. Walton, the new dean, will find many of Scotch descent on the bench and amongst the bar of Canada.

The death of Mr. Joseph Amable Berthelot removes the oldest pensioned judge of the Superior Court in this Province. Mr. Berthelot was born in 1815, and admitted

to the bar in 1836, when he entered into partnership with Sir L. H. Lafontaine. On the elevation of the latter to the bench, the deceased became a partner of Sir George Etienne Cartier. During the years 1855 and 1856 he acted as judge of the Seigniorial Court then sitting in Montreal; in February, 1859, he was made a Q.C., and the following year a justice of the Superior Court, to replace Mr. C. D. Day. In 1858 he was elected *bâtonnier* of the Bar of Montreal, and re-elected by acclamation the following year. In 1860 he was appointed a judge of the Superior Court, a position which he retained until 1st September, 1876, when he retired.

Mr. Brown Chamberlin, C.M.G., who died a few days ago, was a member of the Quebec bar, but devoted himself first to journalism, and subsequently, in 1870, accepted the office of Queen's Printer. In 1891 he retired. Mr. Chamberlin married a daughter of Mrs. Moodie, well known as a writer. Many of Mrs. Moodie's sketches appeared in the *Literary Garland*, published by Mr. Lovell nearly half a century ago.

NEW PUBLICATION.

"*Le Droit Civil Canadien*," by Mr. P. B. Mignault, Q.C. Vol. III. C. Théoret, Montreal, publisher.

The appearance of a third volume of this important work, within little more than two years from its commencement, indicates that the author is pursuing the plan laid out with unabated ardour, and that if no unexpected obstacle interferes the work will be brought in due course to its conclusion. Of the two volumes which previously appeared, the first brought the reader to the title of "Separation from Bed and Board," and the second, continuing the commentary from this point, ended with the title of "Usufruct," 498 articles being thus commented on. The present volume takes up the titles of Real Servitudes, Emphyteusis, and the first title of the third book, treating of Successions.

The plan of the work has already been noticed in referring to the first two volumes. Mr. Mignault has adopted as the basis of his work the "Repetitions" of Mourlon. The text of this work is reproduced when it is the same as that of our code, but it is not followed where the text of our law differs from the modern French law. The points of dissimilarity are carefully noted, and the differences are sufficiently considerable to represent about a third of each volume.

The title of Real Servitudes comprises nearly two hundred pages. On this subject the author has produced a considerable amount of original work. We may refer to his discussion of the subject of watercourses, pages 19 and following; on mitoyenneté, pages 58 and following; the distance to be observed in the planting of trees and hedges, page 100; the ownership of fruits on branches which hang over the adjoining property, page 111; servitudes by destination of the *père de famille*, page 151.

The title of Emphyteusis is entirely original, this title not being found in the Code Napoléon. The work commences with a historical treatise on the subject and an examination of the consequences of the rule that emphyteusis carries with it alienation.

The title of Successions occupies about 400 pages. The reader will find in examining this portion of the work a number of subjects on which the author has bestowed considerable research. Among many topics which might be indicated are those of successions devolving to ascendants and collaterals, discharge of the beneficiary heir, persons who are bound to make returns, effects of partition, etc.

It may also be remarked that a number of supplementary notes have been added which are not without considerable interest. Space does not admit of an extended notice of these points, but it is sufficient to say that the present volume fully maintains the high standard which the author reached in the previous volumes, and which have already made a reputation for the work.

SUPREME COURT OF MICHIGAN.

29 March, 1897.

CITY OF GRAND RAPIDS v. WILLIAMS.

Disorderly conduct—Peeking into windows of residence disorderly conduct—Evidence—Complaint.

One found guilty of peeking into the windows of an occupied residence, not occupied by himself, was properly convicted of being a disorderly person within the meaning of a city ordinance providing that, "All persons who shall be engaged in any illegal or immoral diversion, or shall use any insulting, indecent or immoral language, or shall be guilty of any indecent, insulting or immoral conduct or behavior in any public street, or elsewhere in said city, shall be deemed a disorderly person and shall be punished," etc.

The complaint sufficiently alleged an improper or unlawful purpose and sufficiently described the place of the alleged offence.

Testimony as to what occurred between the respondent and the parties who were watching him, was competent for the purpose of identifying him.

Error to the Superior Court of Grand Rapids; E. A. Burlingame, Judge.

Appeal of George Williams from a conviction of disorderly conduct, affirmed.

MOORE, J.—The respondent was convicted of a violation of section 1, of an ordinance of the city of Grand Rapids, entitled "An ordinance relative to disorderly persons, which reads, "All persons who shall be engaged in any illegal or improper diversion, or shall use any insulting, indecent or immoral language, or shall be guilty of any indecent, insulting or immoral conduct or behavior in any public street or elsewhere in said city, shall be deemed a disorderly person and shall be punished," etc.

The complaint, omitting the parts purely formal, reads as follows:—

"On the 8th day of September, A.D. 1895, at the city of Grand Rapids, in the county aforesaid, and within the corporate limits of said city, one George Williams was then and there guilty of indecent, insulting and immoral conduct and behavior by peeking in the window of a house on the corner of Wenham avenue and Lagrave street, said house being then and there occupied by persons living there, and not being the residence of said Williams, and was then and there found in a state of intoxi-

cation, to the evil example of all others in like case offending; contrary to the provisions of section 1 of an ordinance of said city, entitled 'An ordinance relative to disorderly persons.'"

Objection was made to the admission of any testimony because the complaint does not state an offence. First, because looking into a house where persons reside is not immoral, insulting, or indecent. Second, because no improper or unlawful purpose is alleged. Third, because the complaint does not set forth any circumstances from which it would appear that the alleged act was immoral, insulting, or indecent. Fourth, because it does not allege any person was in the house and because the complaint does not describe the place of the alleged offence.

The testimony disclosed that in the night, between half past ten and twelve o'clock, respondent was seen to leave the sidewalk and go to the bay window of a residence, about six feet from the walk and when within six inches of the window, he leaned over, with his arm on the window-sill, and putting his right hand above his eyes, looked into the window, and remained in that position about two minutes. The room was lighted; the window shade was six to twelve inches above the window sill. The room was occupied by several persons, some of whom were women, and all were dressed decorously.

The respondent did not live at the residence where this occurred, and, so far as the record discloses, he had no business to call him there. Two witnesses who saw the respondent while at the window, were allowed, over the objection of the defendant, to testify that half or three-quarters of an hour later they attempted to take hold of the accused and detain him, when he jerked away from them and jumped over a high board fence and escaped.

After the testimony was closed, the respondent asked the judge to direct a verdict in his favor. This request was refused, and after calling the attention of the jury to the provisions of the ordinance, and the contents of the complaint, he charged them: "It is no offence for a person walking along on the sidewalk and without trespassing upon the premises of another, to look through an uncurtained window or a window partially covered with a curtain. But if a person steps off a sidewalk, not at the usual approaches or walks to a house, and for no legitimate purpose and without the consent and against the will of the owner,

in such case he may be a trespasser, and wrong-doer; and if after so trespassing he proceeds to a window with a curtain, raised from five to twelve inches, and leans upon the window sill, and with no legitimate purpose in so doing, such peeking in at such window so shaded by curtains, at eleven or twelve o'clock at night, may in the law be said to be peeking into the window, although he is not looking through a small crack, and in this case I will leave it to you to say whether the respondent was peeking into the window or not."

Other features of the case were discussed and the jury returned a verdict of guilty. The second objection to the complaint is decided against the position of the respondent, by the case of *Grand Rapids* v. *Bateman*, 93 Mich. 135.

The objection that the complaint does not sufficiently designate the place of alleged offence, is not well taken: *Green* v. *State*, 4 So. 548.

The question involved is, did the complaint state an offence punishable by the ordinance? We cannot conceive of any conduct much more indecent and insulting than for a stranger to be peeking into the windows of an occupied lighted residence, and especially at the hours of night when people usually retire.

The judge was not in error in holding that the complaint stated an offence. The testimony admitted as to what occurred between the respondent and the parties who were watching him, was entirely competent for the purpose of identifying him. The verdict of the jury was justified by the evidence. Judgment is affirmed. The other justices concurred.

COURT OF APPEAL.

LONDON, 15 June, 1897.

STONE v. THE PRESS ASSOCIATION. (32 L.J.)

Consolidation of actions—Libel.

Appeal from an order of Bruce, J., at chambers.

The action was brought to recover damages for a libel published by the defendants. The plaintiff had commenced sixteen other actions in respect of substantially the same libel against sixteen newspapers, to whom the alleged defamatory paragraphs

had been supplied by the defendants. The defendants in this and the other actions, before delivery of the defences in the actions, applied under section 5 of the Law of Libel Amendment Act, 1888, to have the several actions consolidated. The plaintiff contended that the actions could only be consolidated for the purpose of trial, and that there was no jurisdiction to make the order before delivery of the defences in the actions.

Bruce, J., made an order directing that the actions should be consolidated at once.

The plaintiff appealed.

Their Lordships (Lord Esher, M.R., Smith, L.J., Rigby, L.J.), held that the Court has jurisdiction under section 5 of the Law of Libel Amendment Act, 1888, where several actions are brought by the same plaintiff against different defendants for the same, or substantially the same, libel, to order the actions to be consolidated before delivery of defences in the actions, and they affirmed the order of Bruce, J.

Appeal dismissed.

COURT OF APPEAL.

LONDON, 24 June, 1897.

PLANT v. BOURNE (32 L.J.)

Vendor and purchaser—Specific performance—Contract—Statute of frauds—Parcels—Uncertainty—Extrinsic evidence.

Appeal from a decision of Byrne, J., reported 66 Law J. Rep. Chanc. 458.

The plaintiff and defendant signed a written agreement as follows: "The said Robert Plant agrees to sell, and the said Robert Henry Bourne agrees to purchase at the price of 5,000*l.* twenty-four acres of land freehold, and all appurtenances thereto, at Totmonslow, in the parish of Dracott, in the county of Stafford, and all the mines and minerals thereto appertaining, possession to be had on the 25th of March next, the vendor guaranteeing possession accordingly." The defendant refused to complete, and the plaintiff brought this action. At the trial he proposed to call evidence to prove that the twenty-four acres mentioned in the agreement were twenty-four acres belonging to himself,

surrounded by a ring fence, and well known to the defendant who had examined the land just before signing the agreement.

Byrne, J., held that there was not in the agreement a sufficient description of the land to satisfy the Statute of Frauds, and that parol evidence to identify it was inadmissible.

The plaintiff appealed.

Their Lordships (Lindley, L.J., Lopes, L.J., Chitty, L.J.), allowed the appeal. They said that it was settled by *Ogilvie* v. *Foljambe*, 3 Mer. 53, and *Shardlow* v. *Cotterill*, 50 Law J. Rep. Chanc. 613; L.R. 20 Chanc. Div. 90, that when there was an uncertain description of the property sold, parol evidence was admissible to show to what premises the agreement related. Here it was said that there was no description of any property at all, and that the evidence, if admitted, must prove a different contract. But the vendor was selling his own land, and although the word "my" was not inserted before "twenty-four acres," the description was sufficient to make evidence for purposes of identification admissible.

THE COMMON SENSE OF COMMON LAW.

"The question," says Sir Frederick Pollock, "our law loves to come round to under every disguise and variation of circumstances is not what a man said in terms, but what his words or conduct or both together gave the other party reasonable ground to expect." Here the genius of practical common sense, which is the glory of our common law, reveals itself, and it is well illustrated in the recent case of *Bloomenthal* v. *Ford*. A company wants to borrow 1,000*l.*, and it gets a printer and stationer to advance the money on the terms that the company is to deposit with him as security certificates for 10,000 fully paid-up preference shares of the company, which the company does, and registers the lender as the holder. Then it borrows another 600*l.* of him on the same terms, and then it meets the fate of most borrowers and goes into liquidation. Now, had the shares been fully paid the stationer would have suffered the loss of a great part of his loan, that would have been the extent of his calamity; but the security had this fatal flaw, that the shares were not really paid up at all in cash or kind, and the holder was consequently in due course invited by the liquidator to contribute

some 16,000*l.* to the assets—a demand which the Court of Appeal actually upheld. The lender—this was the view which the Lords Justices took—might have known, and ought to have known, that the shares were not fully paid; they did not give sufficient weight to the fine old doctrine of estoppel, beloved, as Sir F. Pollock says, of our law. The House of Lords has happily saved this scandal to the administration of justice, and has put the law, or rather declared the law to rest, on a broader and sounder basis. When a company or anybody else makes a representation which it intends the person to whom it is made to act upon, and he does act upon it, neither good conscience nor law will allow the maker of the representation to say, "You might have found out that what I told you was false." The answer is, given long ago by Lord Chelmsford, "Your misrepresentation put me off my guard."—*Law Journal* (*London*).

THE LAW OF EVIDENCE (CRIMINAL CASES) BILL.

Sir Harry Poland, in a letter to the *London Times*, with respect to the bill before the Imperial Parliament bearing the above title, says :—

I shall be glad if you will allow me to make a few comments upon some of the principal points which will have to be dealt with when the committee stage is reached, which will be shortly after Parliament meets.

The first is—Ought husbands and wives to be made compellable witnesses against each other? Sir Herbert Stephen in his letter which appeared in the *Times* of April 24 says that "to make them compellable seems to be inhuman." He further says that "the wife of a man guilty of crime is bound by law, by religion, and by her solemn vow to assist, succour, and cherish her husband," and that "the bill proposes to give her choice between (1) breaking this solemn obligation, (2) committing perjury, and (3) going to prison for contempt of Court." Anyone reading the last paragraph of his letter would suppose that a wife is to be compelled for the first time to give evidence against her husband, whereas both by the common law and by the statute law she is in certain cases not only a competent witness but a compellable witness.

This is the common law: "In any criminal proceeding against a husband or wife for any bodily injury or violence inflicted upon

his or her wife or husband, such wife or husband is competent and compellable to testify"; and the same rule of law applies to cases of treason. The following is an instance of the statute law: The Married Woman's Property Act, 1888 (47 & 48 Vict., c. 14), enacts that "in any such criminal proceeding against a husband or a wife as is authorized by the Married Woman's Property Act, 1882, the husband and wife respectively shall be competent and admissible witnesses, and, except when defendant, compellable to give evidence." The Government bill therefore extends the law as it applies to these cases to all cases; and is there any good reason why a wife should be compelled to give evidence against her husband when he is charged with giving her a black eye, or with fracturing one of her ribs, and not be compelled to give evidence against him when he has murdered or injured one of their children or her child by a former marriage? And there is this absurdity, that if a husband administered poison to his wife and child, and the wife recovered and the child died, she could be compelled to give evidence against him for the attempt to poison herself, but could not on the charge of murdering the child. It may be said that it is sufficient if she is made a competent witness; but that is not so, for all persons acquainted with criminal courts must have known many cases where a wife has been willing to give evidence against her husband in cases where she is a compellable witness, and the husband, or his friends, have threatened and intimidated her and prevented her from coming to the Court to give evidence, and there are other cases in which the wife has been persuaded by her husband's friends, and by her own friends, not to give evidence, when, in the interests of justice and for her own protection and for the protection of her children, she ought to have been made to attend the Court to be sworn as a witness, and then to be free to give her evidence against her husband. The Prevention of Cruelty to Children Act, 1894 (57 & 58 Vict., c. 41), although it did not go so far as to make a wife compellable to give evidence, yet it does provide for her being required to attend at the Court. The words of that Act are "such person shall be competent, but not compellable, to give evidence, and the wife or husband of such person may be required to attend to give evidence as an ordinary witness in the case, and shall be competent, but not compellable, to give

evidence." There are other statutes to the same effect. Sometimes when the husband is charged with offences against his or his wife's child, her evidence is only required to prove the age of the child. I have known a case in which the wife gave evidence against her husband before the magistrates, when he was charged with an indecent assault on her child, by proving that such child was under thirteen years of age, but when the trial took place at the sessions she declined, as she was entitled to do, to give evidence there, and so the age of the child could not be proved. In some of the serious cases under the Criminal Law Amendment Act the age of the child has to be proved, and it must be remembered that where the registration of the birth of the child has taken place in Scotland or Ireland, or a long distance from the place of trial, the wife of the accused is often the only person who can prove the age of the child without a great deal of trouble and expense.

The proposed change in the law may or may not be considered desirable, but denouncing it as "inhuman" and "revolutionary" does not assist the argument, nor do sentimental appeals to religion and to the woman's marriage vow seem to be of much use. I am not aware that in any marriage service the woman makes a vow to "assist and succour" her husband if he commits a crime, and she makes no vow at all if she is married before a registrar. The relations of the accused, when required to give evidence against him, under the present law are always treated with great consideration and kindness, and are never unduly pressed.

The second point is—Should a prisoner be cross-examined to his "credit," and also as to his former convictions? This is a point of great difficulty, in which there is also a good deal to be said on both sides. Let me put this case by way of example. A respectable girl has charged a man with a gross act of indecency. On the prisoner's instructions she is cross-examined to her "credit," and a number of suggestions are made against her. The prisoner elects to give evidence, and he says that the girl has perjured herself, and that the charge made against him is false. Is he to go out of the witness-box without being cross-examined to his "credit" when a year before he was convicted of an indecent assault of a similar character on another girl, and when it is known that he was kicked out of his lodgings for acts

of indecency? Again, there are some cases of a terrible kind in which a prosecutor is cross-examined and in which, if the suggestions made against him are true, he is not fit for the society of decent people. Is the prisoner to be allowed to go into the witness-box and to deny everything the prosecutor has said and to walk out of the box as if he were a respectable and decent member of society who had the misfortune to be improperly accused of the offence? Care must, of course, be taken that a man who has been convicted of crime is not convicted by reason of his bad character, but it is not a good reason against the proposed change in the law to urge that men who have been convicted of crimes and who elect to give evidence are not placed by this bill in the same position as men of good character who elect to give evidence. We need not shed many tears over the habitual criminal, although we must take care that he gets justice. It must not be forgotten that in the twenty-five or twenty-six Acts under which the defendant is already made a competent witness there is no provision to prevent his being cross-examined like an ordinary witness. Here is a specimen of one of them. Sir William Harcourt's Explosive Substances Act, 1883 (46 & 47 Vict., c. 3), s. 4, enacts that "in any proceeding against any person for a crime under this section such person and his wife, or husband, as the case may be, may, if such person thinks fit, be called, sworn, examined, and cross-examined as an ordinary witness in the case." The Lord Chief Justice of England is of opinion that if a prisoner elects to go into the witness-box he ought to be liable to be cross-examined to his credit like any other witness, and although I entertained a different opinion for some time I have quite come round to his view. If a prisoner has been convicted over and over again he had better not go into the witness-box. The case for the prosecution will then have to be proved against him as at present, and the judge trying the case must be trusted to make the jury understand this.

The third point is—If a prisoner does not elect to go into the witness-box, should any comment be allowed to be made upon that fact? Juries will soon know that prisoners can go into the witness-box in all cases, and will take notice of the fact when they do not do so. Smith is tried in the morning, and his counsel with a flourish of trumpets refers to the salutary change

in the law by which he can call his client, his wife, and the wife of Smith's co defendant Robinson. In the afternoon Brown is charged before the same jury, and Brown's friends go into the witness-box to prove an *alibi* for him, and Brown's wife also goes into the witness-box, but he does not himself go there. The jury will not fail to notice this, even if it is not to be alluded to in any way by the counsel or the judge. There are cases in which it would be proper to comment on the prisoner's absence from the witness-box, and cases in which it would be improper to do so.

In some of the colonial Acts there is a provision to prevent such comment from being made, and, although the judges loyally endeavour to carry out the directions of the Legislature, such provision is of little use, as the juries know full well that the prisoner might have gone into the witness-box and for some reason did not adopt that course.

The fourth point is—Is it right that persons should be put under the temptation to commit perjury, and is it not desirable that the future prisoner and his wife should not give evidence on oath? This is a very small matter. As long as the accused is a competent witness, and the husband or wife is not only a competent but compellable witness, it is of little consequence whether the evidence is given on oath or on affirmation or declaration without an oath. There are many persons who will agree with my friend Mr. H. C. Richards, who, I understand, proposes that the evidence given by the accused person under this bill shall not be on oath, and who think that what Pericles said to Helicanus in the play is true—

> I'll take thy word for faith, not ask thine oath;
> Who shuns not to break one will sure crack both.

The fifth point is—It is proposed that counsel should be assigned in every case to an undefended prisoner.

This is, in my humble judgment, a most mischievous proposal. I should rejoice if in all cases a solicitor could be assigned to a prisoner to get up his case and to instruct counsel, but with regard to assigning counsel to a prisoner, I have seen injustice done by the practice being adopted in capital cases. Counsel assigned by the judge cannot in many cases get fully instructed as to the prisoner's defence, subpœna his witnesses, and do solicitor's work. He makes the best defence he can from the

depositions, and it may be that it is not exactly the defence which the prisoner would himself make when a witness in the witness-box.

One of the most valuable provisions of this bill is that it will give protection to the innocent prisoner who is not defended by counsel, for he will be able to go into the witness-box and tell his story, and the judge will take care that his real defence is made, and if, by reason of his ignorance or poverty, he has not brought witnesses whom he says can support his statement the judge can adjourn the trial and have them sent for by the officer of the Court, or if the case is prosecuted by the Director of Public Prosecutions the judge can request him to procure their attendance. The judge can also, when he finds out what the prisoner's story is, recall the witnesses for the prosecution, if necessary, and ask them questions which the prisoner ought to have asked himself. To call the questions put by the prosecuting counsel or the judge, to get at the real facts of the case, a "cross-examination" is hardly accurate.

The last point is—Should prisoners only be allowed to give evidence when being tried on an indictment at assizes or sessions, and not by a Court of summary jurisdiction? Such a restriction is impossible. It is as important that an innocent man should be competent to give evidence in one case as in the other. If an illustration were wanted of this, I would refer to a letter which appeared in the *Times* of May 18 last from Mr. Evelyn S. Hopkinson, an undergraduate of Exeter College, Oxford, and I would ask any candid person to say, after reading that letter, whether the law which excludes a defendant in such a case can be a just law. If Mr. Hopkinson had been a competent witness he would have gone into the witness-box, his evidence would have been taken down like the evidence for the prosecution, and in any event the proceedings would have been less summary than he says they were. To call witnesses for the defence and not to allow the defendant himself to give evidence is, as you point out in your able article from which I have already quoted, as little to be justified as the exclusion from the witness-box of the parties to suits in civil actions.

All the great lawyers with whom I have from time to time for years past talked over the question as to accused persons being allowed to give evidence have advocated the change in the

law on the sole ground that it would protect innocent persons, and that distinguished judge, Chief Justice Way, has informed me that the Act enabling accused persons to give evidence works well in South Australia.

It is certainly time that we made up our minds as to what is the proper way of trying an accused person, and the opportunity has at last arrived for the wisdom of Parliament to determine whether we shall revert in all cases to the old system of trial, whether we shall allow the existing "atrocious anomalies" (Lord Salisbury's expression, I think) to continue in the present modes of trial, or whether the proposed new system provided by this bill shall prevail in all cases. It is fortunate that the leading men on both sides of the House have supported the principle of this bill, as it will consequently be dealt with in committee simply as a bill for the reform of the law, in which party politics can have no part.

As the second reading of this bill was carried by so large a majority, and as it has your powerful aid and that of the Press generally, it will in all probability be passed this session, and it therefore behoves everyone, lawyer or layman, who has had experience in criminal trials to assist in making it as perfect a bill as possible. No good can come of charging your opponents with being "pathetically ignorant of their own ignorance," or of prophesying that thirty innocent persons on one circuit alone will be convicted if this bill is allowed to become law.

GENERAL NOTES.

DIVORCE.—A judge of Janesville, Wisconsin, granted a decree of divorce to a woman whose husband puffed tobacco smoke through the keyhole of a door leading into a room where her mother lay sick.

LITIGATION IN INDIA.—The Government of India has addressed a letter to the Government of Bengal on the increase of litigation. Reference is made to the "enormous and apparently increasing" number of appeals in civil suits. The figures show that there are appeals in about 30 per cent. of the contested cases in India, and that there are 240 appeals in India for every one in England from inferior Courts.