

## ENGLISH CROWN CASES RESERVED.

*Court of Criminal Appeal.*

## REG. vs. WILLIAM BERRY.

The prisoner and the prosecutor's wife were jointly concerned in removing certain goods of the prosecutor from his house. They conveyed the goods to a distant place, where the wife took lodgings in her own name, and was afterwards found living with the prisoner. The prisoner was tried for stealing the goods, and on the trial the wife was examined on his behalf, and swore that they had not gone away for the purpose of carrying on an adulterous intercourse, and never had committed adultery together. The jury were directed, that if they were satisfied that the prisoner and the prosecutor's wife, when they so took the property, went together for the purpose of having adulterous intercourse, and had afterwards effected that criminal purpose, they ought to find the prisoner guilty; but if they believed the wife, that they did not go away with any such criminal purpose, and had never committed adultery together at all, the prisoner would be entitled to his acquittal. The jury convicted the prisoner, and the question was reserved as to whether the direction was right:—Held, that it was.

The following case was stated by the recorder of Manchester: "William Berry was indicted at the general sessions for the city of Manchester, held at Manchester, on the 2d August, 1858, and was found guilty of stealing one bed, two boxes, four pairs of blankets, six shirts, two dresses, and two carpets, the property of Robert Elliott, of the value of 5*l* and more, in his dwelling-house. On the 5th June, and for six months previous, the prisoner lodged at the house of the prosecutor, and knew that the prosecutor would have to go out very early that morning. On the 4th June the prisoner engaged a porter to be near the prosecutor's house at seven o'clock the next morning with his cart. He went there. The prisoner came to him and took him to the door of the prosecutor's house, where he drew up his cart. The prisoner and the wife of the prosecutor were then together in the house, and were jointly engaged in packing up the articles mentioned in the indictment, in boxes, and when so packed up the prisoner brought the boxes to the door, and the carter assisted him to put them upon the cart. They were then driven to the railway station, the prisoner, the prosecutor's wife, and her three children accompanying them, and all left by the train for Leeds. A fortnight after this the prisoner and the prose-