

POETRY.

(Original.)

ON THE GRAVES OF FRIENDS.

When dark days are lowering
'Tis a thing to roam;
Thro' fields lately flowering,
In summer's gay bloom—
To mark where the blossoms,
In mild beauty shone;
Unfolding their bosoms,
So fair to the sun.
Even so in affliction,
To muse o'er the dead;
And breathe our affection,
Where low they are laid—
Is mournfully pleasing,
While thoughts busy there;
The tired spirit eases,
Of every vain care.
O'er the wood-circled graves,
Where my friends' ashes lie;
The night tempest raves
And the dews fall—
O, cold is the clay,
Over hearts once so warm;
And mouldering away
Is each once active form.
Like the lilies when blooming
And bathed in the dew;
So meek, unassuming
And rivalled by few—
They blossomed awhile, in
The spring of their years;
But early, their smiling,
Was mingled with tears.
Tho' summoned by Death
To the mansions above;
Where pure spirits bathe,
In the fountain of love—
A heart will sorrow,
Lamenting their doom;
'Till deep, dark and narrow,
It sleeps in the tomb.

A STRANGER.

EUROPE.

ENGLAND.

[From the London Courier, September 26.]

EXTRAORDINARY CHARGE OF PIRACY AND MUTINY.
Yesterday the four convicts who have assumed the names of George Huntly, Charles Williams, John Anderson, and Alexander Telford, and who stand charged with being concerned in running away with the colonial brig *Cyprus*, between Hobart Town and Macquarie Harbour, in the month of August, 1829, and subsequently with being concerned in some nefarious acts of piracy were brought up for re-examination at the Thames Police office, before Mr. Ballantine, the sitting magistrate.

On the 8th inst. we inserted an account of the arrival of the prisoners at Canton, in an open boat, their examination before the authorities there, and the transmission of the four men, with another who had escaped, in consequence of the contradictory stories they told respecting the brig *Edward*, which they stated was wrecked on the coast of China, and preserved their lives by taking to the boat now in possession of the Thames Police, and marked "William Waldon, *Edward*, of London." At the former examination, it was suspected by Mr. Evans, the chief officer, of the Thames Police, that the prisoners were four of the convicts concerned in the mutiny and seizure of the *Cyprus*, in consequence of their persons answering the description of four men described in the "Hue and Cry" of the 13th March last. Yesterday John Popjoy, who was on board at the time the brig was seized, and Thomas Capon, Esq. High Constable of Hobart Town and Van Diemen's Land, who has recently arrived in England, attended and confirmed the suspicion of Mr. Evans, and proved beyond a doubt the identity of the prisoners as being concerned in the nefarious act, which, but for the heroic exertions of Popjoy, would have ended in the death of more than fifty persons.

The office was crowded to excess, principally with gentlemen connected with the Colony who have come to this country. The proceedings will no doubt prove interesting to our readers.

John Popjoy, a little man, who was the first witness, He was sworn and deposed, that he was formerly a convict sent out from this country, but had received a free pardon. In August, 1829, he was at Hobart Town, and volunteered to go on board the *Cyprus* brig, as coxswain, bound to Macquarie Harbour, a new settlement then forming. The vessel left the island under the command of Captain Harris, the crew consisting of seven men and the Steward, 30 or 31 convicts, and 12 soldiers as a Military guard, commanded by Lieutenant Carew, whose wife and three children accompanied him. There were also 3 other women (soldiers' wives) on board. Witness, although a convict, was allowed to go on deck. The ship had not proceeded more than 60 miles from Hobart Town, when they encountered a gale of wind, and lost their anchor and chain cable. They were compelled to put back and procure a new anchor and cable. On the third day after their second departure they came to an anchor in Research Bay, found the anchor they had previously lost, and watered the ship. In the afternoon Lieut. Carew proposed a fishing party, and witness volunteered to accompany him. Dr. Williams, the chief mate, and a soldier, also went, making five in all. They had not been fishing half an hour, when several musket shots were heard on board the brig, which they at first thought proceeded from some vessel rounding the point. They immediately left off fishing, and rowed towards the brig, and on coming along side saw one of the convicts in a yellow jacket, walking the deck as sentry. Lieut. Carew exclaimed, "Oh, my God, the convicts have taken possession of the vessel."

The Lieut. jumped into the main chains and wanted to come on board, but the convicts said the ship was theirs, and refused his request. One of the mutineers (Matthew Pennell) presented a musket at him, which he snapped, but it missed fire. Lieut. Carew then begged that his life would be spared, and asked for his sword, his wife and his family. The convicts put the mother and children in the boat. Witness received one in his arms, and wanted to accompany Lieut. Carew and his family, but the mutineers said they could not do without him, and dragged him on deck. He found the convicts all armed, and several soldiers were lying on the deck dreadfully wounded and mutilated. One of them was near the helm with his head cut open, and one of the prisoners at the bar (Telford) was standing over him. The passengers, soldiers, and crew, were then conveyed ashore in boats on a desolate island, without food. Witness was asked by the convict who acted as Captain, if he would consent to accompany them on a piratical expedition, and be made second mate; but he refused to join them, and he was then lashed, hand-cuffed, and put forward amongst the sailors, who, at that time, had not been sent ashore, owing to a heavy gale of wind that had just sprung up. He remained in this situation until two o'clock the next morning, when he was admitted on deck by a convict named Bryan, who was sentinel over the main hatchway; and under pretence of going for a drink of water forward, he jumped overboard, and swam about a mile through a rough and tempestuous sea. On landing on a barren and desolate shore he discerned a distant light, and having with difficulty waded a broad river, and crossed a swamp, he there found Lieut. Carew, his wife, and three children, part of the military guard, and several of the ship's company, in all about fifty persons, who had been put ashore on the inhospitable place by the mutineers. The next morning at six o'clock, just as the day was breaking, he heard three cheers from the brig, and had the mortification of seeing them leaving them on shore to their fate, without any aid or means of escape. Popjoy then related the manner in which he preserved the lives of the passengers, by obtaining muskets and other shell-fish, for the support of his fellow sufferers. He afterwards constructed a little canoe, with which he set sail on the wide ocean, surrounded by sharks, and after being buffeted about for 5 days, during which he experienced the most dreadful privations, was thrown ashore on Partridge island, and had given himself up for lost, when the Zebra brig hove in sight and he was taken on board, and gave information of the misery which his unfortunate companions were enduring in their desolate abode. No time was lost in despatching two of the ship's boats, laden with provisions for their use. The welcome assistance arrived in time to save the unfortunate sufferers, who endured the greatest misery, and would no doubt have been starved to death but for the heroic exertions of Popjoy. The witness said he received the thanks of the colonial authorities for his exertions; his conduct was spoken very highly of by the Hobart Town papers, which he produced, and he received a free pardon, although he had 32 months of his time to serve. Lieutenant Carew's family were on the point of perishing from starvation when assistance arrived.

Mr. Ballantine now asked Popjoy if he could identify the prisoners as 4 of the convicts who seized the *Cyprus* brig.
Popjoy—I know them well. The first (Huntly) is George James Davis; he was a convict, and before the expiration of his sentence, committed a highway robbery in Hobart Town, was tried before Justice Padder, and condemned to die. His sentence was afterwards commuted to transportation to Macquarie Harbour. He was on deck very active the day the brig was seized. The second (Williams) is Wattie, as we used to call him on board. His name is William Watts, and was a convict. He ran away from the chain gang, took the bushes, and was seized. He attempted to stab one man and to shoot another, before he was taken. The third man (Telford) we used to call Sandie. I know nothing particular about him. He was taking care of the compass, and was standing over one of the soldiers who was wounded. I knew him as a convict in Hobart Town. The fourth (Anderson) is John Beveridge. He was also a convict, tried in Hobart Town for stealing lead from Mr. Peachy, and was sentenced to 7 years' hard labour at Macquarie Harbour. He was also on board.

Mr. Ballantine—Do you recollect the name of Sandie, as you call him—was it Alexander Stevenson?

Popjoy—Ay, that's the name; he was sometimes called Stevie.
Mr. Ballantine—Do you recollect any marks on the persons of the prisoners?
Popjoy—Do, Sir; on the very day the brig was seized, a convict who took likenesses off, pricked the figure of a female on Davis's arm.
[The prisoner Huntly, alias Davis, betrayed great confusion at this remark.]
Mr. Ballantine—Do you recollect any other marks?
Popjoy—Yes, Sir; Wattie has a scar on his upper lip, and the initials of his name W. W. on his arm.
Williams alias Watts, was directed to take his hand from his mouth, when the scar was distinctly seen.
Popjoy said he did not recollect any marks on the other prisoners.
The Magistrate then directed the witness to be shown the boat sent over from Canton with Huntley, and in which he arrived at that place. Popjoy, after minutely inspecting it, said it was the boat belonging to the *Cyprus* brig, and the words "William Waldon, *Edward*, of London," must have been painted after the convicts ran away with the ship. The same boat had run through all the Government vessels, and was exchanged.
The prisoners were then asked if they had any questions to ask Popjoy. They all declared that they had never seen him before, and related the same story they had previously told, that they were wrecked in the brig *Edward*, off the coast of China. Huntley said the other prisoners were strangers to him, and he hoped there was a pillory close by, in which Popjoy could be placed for the perjury he had committed. He was innocent, had never been in Hobart Town, or in the *Cyprus*, and would bring an action for false imprisonment.
Popjoy said, he had more reason to know Davis alias Huntly, than the other prisoner, for he was in court when he was tried, and was lashed by him on the deck of the vessel.
Mr. Ballantine said that Popjoy had given his evidence very clearly, and a witness would now be called who would confirm him in many points.
Thomas Capon, Esq. High Constable of Hobart Town, and the colony of Van Diemen's Land, deposed that he knew Popjoy, who was sent in the *Cyprus* at his suggestion. He was a convict, and pardoned for his humane and heroic exertions in saving the lives of his fellow sufferers. The *Cyprus* left Hobart Town in August, 1829, with convicts, under the command of Lieutenant Carew, of the 63rd Regiment, and the brig was seized in the manner stated. The four prisoners at the bar were amongst them; witness knew them all well. Watts was in his custody, and was sent off by the *Cyprus* to Macquarie Harbour for leaving the chain gang, and taking to the bushes. He was a very desperate fellow, and endeavoured to stick a knife in the body of the man who took him; witness was present at the time closed upon Watts and saved the man's life. Davis alias Huntly, was tried for cutting off a fisherman's pocket in Hobart Town, before the term of his sentence expired. The fisherman swore positively to him. Anderson alias Beveridge was tried for stealing lead, in conjunction with a boy named Thacker, from the house of Mr. Peachy, a tavern keeper. He was acquainted with the person of Stephenson, who had assumed the name of Telford. All the prisoners were under his surveillance in Hobart Town, and were convicts sent from this country; Watts was generally called Wattie.

Mr. Ballantine asked the prisoners if they knew Mr. Capon. The prisoners declared they had never seen him before; they knew nothing of him.
Mr. Ballantine—I do not wonder at your disavowing any acquaintance with the gentleman. You, Stevenson, appear to recognise him.

Stevenson—That is not my name, Sir; I have told you my name is Alexander Telford.
Mr. Evans, the chief officer of the Thames Police, said the marks on the persons of Davis and Watts were exactly as described by Popjoy. He produced the *Hue and Cry* of the 13th of March.

George James Davis alias Huntly, was examined before Mr. Rogers, at Hatton-garden Police office, on the 13th July, 1829, for stealing some silver spoons, tried at the Old Bailey Sessions, before the Common Sergeant, found guilty, and sentenced to seven years' transportation; his profession was that of an engraver, and he resided in Clerkenwell.

Watts alias Williams, was a horse breaker, and a native of Bristol, and was tried in that city, July 18, 1815, and sentenced to seven years' transportation. Alexander Stephenson, alias Telford, was born at Paisley, and was a weaver; he was tried at Glasgow on the 13th April, 1824, and sentenced to fourteen years' transportation. John Beveridge, alias Anderson, a slater, was a native of Dumfries-shire, and was tried at Perth, March 4, 1821, and also sentenced to the same term of transportation. Mr. Evans then read over the description of the four persons just named, their height, colour of their hair and eyes, complexion, &c. which the Magistrate said answered in every respect to the prisoners at the bar.

Mr. Evans stated, that when he took Watts alias Williams, from the *Charles Grant* East Indiaman, he found a bible in his possession, with several papers and receipts for money, on which the names of William Watts, Eliza Watts, and Bridget, were written. The inside covers of the bible were covered with writing, consisting of a hymn, called "The Thief's Lamentation," and other prayers. The books and papers were shown to Mr. Capon, who immediately identified them as having been in his possession after he secured Watts for bush-ranging. Some of the receipts were in Watts's own hand-writing. Eliza Watts was the wife of the prisoner, whom he married after his arrival in the Colony as a convict. The other names on the receipts and bills were those of respectable settlers of Hobart Town. Watts was in business there, and might have done well, but for his dissolute habits, and return to his old practices.

Mr. Ballantine inquired if any tidings had ever been heard of the brig *Cyprus* after she was seized by the convicts.
Mr. Capon said that the Captain of an American vessel, which arrived some time afterwards at Hobart Town, gave information of having spoken the brig off the Ladrone Islands, and the *Success* sloop of war was, in consequence, sent out, but did not succeed in discovering the vessel, no tidings of which were afterwards heard. Witness was of opinion that the convicts went about cruising, and carrying on piratical practices on the South American coast. He never heard what had become of the convicts until the present time.

Mr. Evans said, that another man, who represented himself as William Waldon, the Captain of the brig *Edward*, was sent over with Watts, Stephenson and Beveridge, in the *Charles Grant*, by the authorities at Canton, but he was allowed to go on shore at Margate, the commander having no authority to detain him. There were also three persons who arrived in a boat with Davis at Canton, whom it is probable might be sent over to this country.
Popjoy said, that from the description given of Waldon he suspected him to be one of the convicts named Swallow, who acted as Captain when the prisoners mutinied and seized the *Cyprus*.
A person from the *Justitia* hulk, at Woolwich, said he had some recollection of the four prisoners, whom he believed were sent off from the hulk to Van Diemen's Land.

Mr. Ballantine said the evidence was quite clear against all the four prisoners, as having been concerned in the seizure of the brig *Cyprus*, but he should remand them for a week, as he expected other persons to come forward and give evidence against them.

The prisoners were then removed, after having made great protestations of innocence. One of them subsequently stated that he thought it was all up with him, and that he should be topped [hanged] at Execution-dock. They are four determined looking ruffians.

We understand that the prisoners will be tried in this country for the capital offence with which they stand charged, and that the only cause for which they have been remanded is to give time for the Secretary of State to adopt measures for prosecuting them at the next Admiralty Sessions, which commence on the 25th of next month. The despatches, it is said, will be forwarded to the Home office, and the prisoners prosecuted at the public expense.

There was a large sum of money belonging to Lieutenant Carew and the passengers on board the *Cyprus* when she was seized by the convicts, who are strongly suspected of having plundered vessels of different nations, and committed other piratical acts after they ran away with the brig, which there is no doubt has foundered or been sunk by the Japanese, the prisoners having confessed they were fired upon, but not in that vessel, at the Japan Islands.

LAUNCH OF THE QUEEN ADELAIDE, WEST-INDIAMAN.—On Thursday afternoon, a fine new ship, of 400 tons burden, was launched from Mr. Gordon's yard, at George's stairs, Deptford, in the presence of their Majesties King William and Queen Adelaide, the Dukes of Sussex and Cumberland, Prince George, Prince Leopold, the Duke of Wellington, the noble and distinguished individuals in attendance on their Majesties, and an immense concourse of spectators. The circumstances attending the launch of the ship are somewhat extraordinary, and deserve to be mentioned. Every preparation had been made for the launch some days past, but it being generally expected that their Majesties would visit Greenwich, it was postponed until their arrival, in expectation that the launch would be honored with the presence of Royalty, on his majesty being made acquainted with the affair. On Thursday afternoon, as the royal party were on their way to Greenwich, on arriving opposite the shipwright's yard, Mr. Gordon rowed along side the ship which contained the King and the Queen, and invited his majesty to view the launch of the ship which was named after his royal consort. The King, with the greatest condescension, listened to Mr. Gordon with great attention, but expressed his doubts, as the tide was then ebbing, it being more than half an hour beyond the time of high water, whether the ship could be launched in safety. After some conversation, however, and the assurance that every thing was in readiness, his majesty ordered the rowers to lay on their oars until the vessel was launched from the stocks, and all the boats, wharves, &c. on the river were immediately stopped. As soon as the determination of his Majesty was made known the air resounded with the acclamations of the people. After waiting about 15 minutes, during which time their Majesties frequently rose from their seats, and gracefully acknowledged the applause of the people, the necessary preparations were completed, a bottle of wine was dashed against the bows of the vessel, and she was staved the noble fabric glided into the water in the most majestic style, amidst the cheers of the people, the firing of cannon, and other demonstrations of rejoicing. Her Majesty appeared much pleased, and smiled on observing her name on the bows of the vessel. The King afterwards went along side the ship, which he inspected with much attention, and expressed his admiration of the beauty of her construction and her general appearance. The Queen Adelaide has been on the stocks about 18 months. She is destined for the West India trade.

SCOTLAND.

SUTTER IN SCOTLAND.—At Sir James's Carnegie's late to the tenants, farmers, labourers, and workmen on his estate, at Brechin, on Tuesday, an unfortunate young man, of the name of Frazer, met his death, and caused that of another, in a very lamentable manner. Having drunk till he became insensible, he was thoughtlessly put on a heap of straw in an empty stall, at the stable of Willenayards, and there left to sleep himself sober. Jean Scott, a female servant, between whom and Frazer there was a slight attachment, went to seek her sweetheart with a lighted candle in her hand. She found him in the barn and endeavouring to awake him—horrible to relate—the candle was knocked from her hand, he, in his drunken sleep, held her in his grasp, perhaps supposing her a robber, till her screams had called the neighbourhood together, but assistance was too late; the straw was ignited, and the unhappy girl, struggling to drag the drunkard from his dreadful fate, became the victim of her humanity, or a more tender feeling, and the assembled neighbours only arrived in time to witness the horrible spectacle of the dying lovers in the midst of a blazing pile! The barn was saved.

BRITISH AMERICA.

UPPER CANADA.

CHARGE.

DELIVERED TO THE GRAND JURY AT KINGSTON ON THE 30th AUGUST 1830.

By the Hon. J. B. Macaulay.

Mr. Foreman and Gentlemen of the Grand Jury.

In my charges to other Grand Juries on this circuit I took occasion briefly to explain the circumstances under which we came to enjoy the Law of England as well in relation to criminal offences, as civil rights, and I also mentioned the Courts of Justice provided for its administration and the Origin and Jurisdiction of each.

Although the Territory we inhabit formed a portion of that ceded by the French King under the Treaty of 1763, still Upper Canada is essentially a British Settlement. This portion of the province of Quebec was at the period of the conquest almost a perfect wilderness, and the earliest inhabitants were of British origin. It is not singular therefore that a strong predilection should prevail in favour of the English law. The English criminal code was imported to us from the beginning, but (although on several previous occasions the wishes and inclinations of the people were adverted to in Legislation, or other official acts of the Government,) it was not until the organization of our present system of Government after the division of the old province of Quebec, that they were gratified by the permanent and unequivocal adoption of those laws which are the boasted inheritance of Englishmen, and which were peculiarly agreeable to the early settlers of this country.

In connection with the laws we also received Courts of Justice, some created by the Legislature, and others emanating from the Royal Prerogative in conformity with the prevailing usage previous to the separation of the Provinces.

The Criminal Law of England as it stood on the 17th September 1792 and the Law of property and civil rights as it stood on the 15th October of the same year, except as since altered or varied by local enactments, form the general Laws of this Province, it is not our place to inquire whether the criminal code in imitation of English example might not now experience much and beneficial amelioration; it is our single duty to enforce it as we find it, leaving to the proper and only competent authority, the task of introducing modification or change when deemed expedient.

It might also be worthy of inquiry whether the Law of England relative to property and civil rights would not admit of a partial revision, at least in relation to some matters involving various and important interests, but it is the duty of the Courts of Justice to adhere to the subsequent changes which any branches of the Law may undergo through the Imperial Parliament unless recognized and adopted here.

When recapitulating the Courts of Law that had been established, I was unable to advert to the rules of practice by which their functions are exercised, and the important business of distributive Justice carried on—and I do not now mention them with a view to any details—that would indeed be a task quite beyond the ordinary limits of this occasion, and could afford I fear little instruction or delight. Whatever is said upon this subject is better restricted to the course of proceeding in the Court of Oyer and Terminer and General Gaol Delivery, in which it becomes this province to act; but previous to entering upon your immediate duties I would make a few general observations applicable to the Court of King's Bench—tho' not incumbent upon me as comprehended within the limits of your duty, yet such subjects are deeply interesting to all of us, and closely connected with the general administration of Justice.

In adopting the Law of England, civil and criminal, ample provision was at once made for the punishment of crime, for the protection of our lives, liberties and properties and for securing the civil rights so essential to the happiness of the community and so justly valued by all who are sensible of their transcendent advantages;—but to dispense the benefits of such a system courts were essentially necessary.

Without Ministers of Justice the Law would be a dead letter, inert, and inefficient. We consequently find the former subsisting from the earliest periods of our judicial history. For the Government of these courts as well as for the guidance of the parties and suitors therein, certain settled rules of action are indispensable, and in turning to that country whence our Laws are derived, we not only find various tribunals, Equitable, Legal, Ecclesiastical and Maritime, each in its proper sphere performing its functions and conducing to the harmony and well-being of the whole, but we perceive the internal motions of each regulated by its own separate and distinct Laws of practice—in the English Courts these systems of practice have been of very gradual growth, and consist principally in rules originally arbitrary, adopted from time to time as the ends of Justice seemed to require, but so adopted with general views, to direct and to regulate without discrimination all parties under equal circumstances.

Upon examining the body of English practice in any of the superior Courts, a complex and voluminous system of it will be discovered to spring, not so much from what might be regarded the fitness of things, as from the peculiar exigencies of the occasion or subject matter. The roots of English practice, as well as of English Law are laid deep in the foundations of eternal Justice, but as the people have from age to age advanced in civilization an artificial turn has been given to society and we consequently find deep traces of a like artificial character not only in the superstructure of the Law itself as raised by the Legislative and Judicial establishments of the country, but likewise pervading the domestic Government of each particular tribunal.

The complicated interests of a community like that of England, necessarily induce a complex judicial code, encreased by the peculiar origin of the Laws and various political fluctuations marking the rise and progress of that great nation. The peculiar origin of the courts, and the objects of their several jurisdictions unavoidably entailed upon them an irregular and apparently arbitrary course of proceeding, terminating ultimately in a confirmed and well defined system, dangerous to disturb tho' not obviously loaded with many redundancies, the substance having long since gone, leaving the shadow and form still vivid, and fondly as well as necessarily cherished.

Such is in short the practice of the Court of King's Bench in England, and such a method would be in many respects inapplicable to a Court of equal jurisdiction created here by Legislative enactment, it has however been in very general terms adopted by us, doubtless with great advantage, but at the same time not without incumbrances. A pre-established usage had much to recommend it, an attempt to cull or abridge was long thought impracticable, and its advocates looked upon it as an unshaken foundation, and the value of preserving unpaired what had been at a great expense of time and caution permanently settled, and the consequences of dis-uniting any links of a chain combining such an endless variety of rules drawn together without symmetry or uniformity, yet in the machinery of the court depending upon one another in indefinite and imperceptible degrees; justly deterred the present and wary. Altho' therefore the Provincial Legislature have at times prescribed a few regulations for the guidance of our superior Courts, nothing like a system has been attempted, and the efficacy has been copiously supplied from the English fountain. It yet remains to be seen whether the hand of innovation can be introduced with salutary effect to prune and cut out redundancies and to engraft such substitutes as peculiar local circumstances may require. That the present mode is too heavy and cumbersome for the occasions of the country many admit.

After great deliberation the ground has been broken in England, and the amendment and the simplification of the practice of the Courts, I believe, a leading object with the present Parliament. What has been actually effected through the Legislature I am not aware, but the learned and able Commissioners appointed by his Majesty some years since to inquire into the practice and proceedings of the superior Courts of Common Law have it is said proposed many extensive and important alterations in which they are sustained by the approving testimony of many of the leading members of the profession.

The inconvenience of this complicated practice in our Superior Court is principally felt in the Civil Department, the Criminal business in the King's Bench is comparatively trifling import, and besides there is no uniformity in the respective proceedings.

The Criminal Law has always been administered with great simplicity—it is in itself far less complicated than the Civil Branch. Public crimes are more determinate—they can be more conveniently classed under general heads, and can be dealt with by a more concise and expeditious course than has been found applicable to, or consistent with, the multifarious and ever varying interests of individuals, in an improved state of Society.

These interests are of course more numerous and complex, and the business of the Courts consequently more intricate, and widely extended in England, than with us—in addition to which the value of the subject in litigation frequently bears no proportion in the two countries.

The argument is much more therefore in favour of a complex System at home, than it can be with us. At the same time it is apparent the various and important duties of a Superior Court here, impose the necessity of a commensurate practice, and in modifying or abridging the inquiry ever should be, not with how few forms and with how limited a delay, a matter of controversy might be disposed of, but with how much brevity and despatch; consistently with a due and cautious regard to the secure and patient administration of justice, and with a due attention to, and just estimate of, the extensive interests so frequently involved.

Turning from these incidental remarks to one more immediate object, I would observe that we are this day assembled upon an occasion most solemn, and essentially important to the interests and welfare of the community—to administer Criminal Justice—to deliver the Gaol of its unhappy inmates—to investigate all matters of crime that shall be brought under consideration—to detect and punish the guilty, and to exonerate and relieve the innocent from the pains and anxieties of suspicion, and the bitterness of confinement. To accomplish these objects the Court necessarily sits clothed with the highest powers. It possesses jurisdiction over all crimes from the greatest to the least—from High Treason, Murder, Rape, and all other Felonies, to the minor transgressions of Misdemeanor—it awards punishment from the lenient discretion of the Court by fine and imprisonment in some cases, to the imperative judgment of Death under the peremptory mandate of the Law in others.

In many instances the measure of chastisement rests in the breasts of the Judge; to be governed by the aggravating or mitigating features of the case—in others (too penal to be so confided) the Court is but the organ of the Law to pronounce that sentence already prescribed for offences of deeper dye. Yet in conformity with the humane maxims of British Justice, that her decrees shall ever be executed in mercy, the constitution has wisely and humanely clothed the Sovereign with the amiable prerogative of withholding her uplifted arm—of turning aside her sharp-edged sword, and of saving from an ignominious fate, such unhappy convicts as may appear under favorable and alleviating circumstances to the Royal Clemency.

"Law" says an able writer, "cannot be framed on principles of compassion to Guilt, yet Justice by the Constitution of England is bound to be administered in Mercy, this is promised by the King in his Coronation Oath, and it is that act of Government which is the most personal and most entire by his own. The King himself, condemns no man, he has rugged task he leaves to his Court of Justice, the great operation of his sceptre, is mercy."

In the exercise of our functions, however, we must never forget, that the discretion and power is a privilege, rest exclusively in the Equity of the Royal Breast; and that it is incumbent upon us to discharge our duty without regard to ulterior consequences; not to condemn hastily in the corollary of that pardon will follow, nor to withhold on account (when guilt is fully established) from compassion, solicitude about the guilty one—and in a proceeding how consolatory is the reflection that in a higher resort there is ever a discretion to compound under which the otherwise rigid and inflexible edicts of the Criminal Law, can (when expedient) be so ameliorated and softened as to harmonize with the benevolent spirit of mercy and humanity.

A remarkable simplicity and despatch attend in general the proceedings of this Court, the accusation is preferred, the presentment made, the Culprit arraigned, his viva voce plea recorded, the Trial had, and the Judgment pronounced, within the brief space of a few days.

Criminal prosecutions may be instituted in several ways. In some misdemeanors by indictment, in the former case without the intervention of a Grand Jury, but in Felonies of a kind only by the previous finding of the quest by Presentment, or by Indictment in the first instance. "The founders of Law," says Sir Wm. Blackstone, "have an excellent forecast contrived that no man should be put to answer to the King for any crime, unless upon the preparatory accusation of more of his fellow subjects, the Grand Jury, and that the truth of every accusation, whether in the shape of Indictment, information, or depeal should afterwards be confirmed by the unanimous suffrage of twelve of his equals sitting in a different court, and superior to the accusation—so that in short no person can be convicted of any felonious act without the assent of four and twenty of his fellow men, in the course of their proceedings."

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