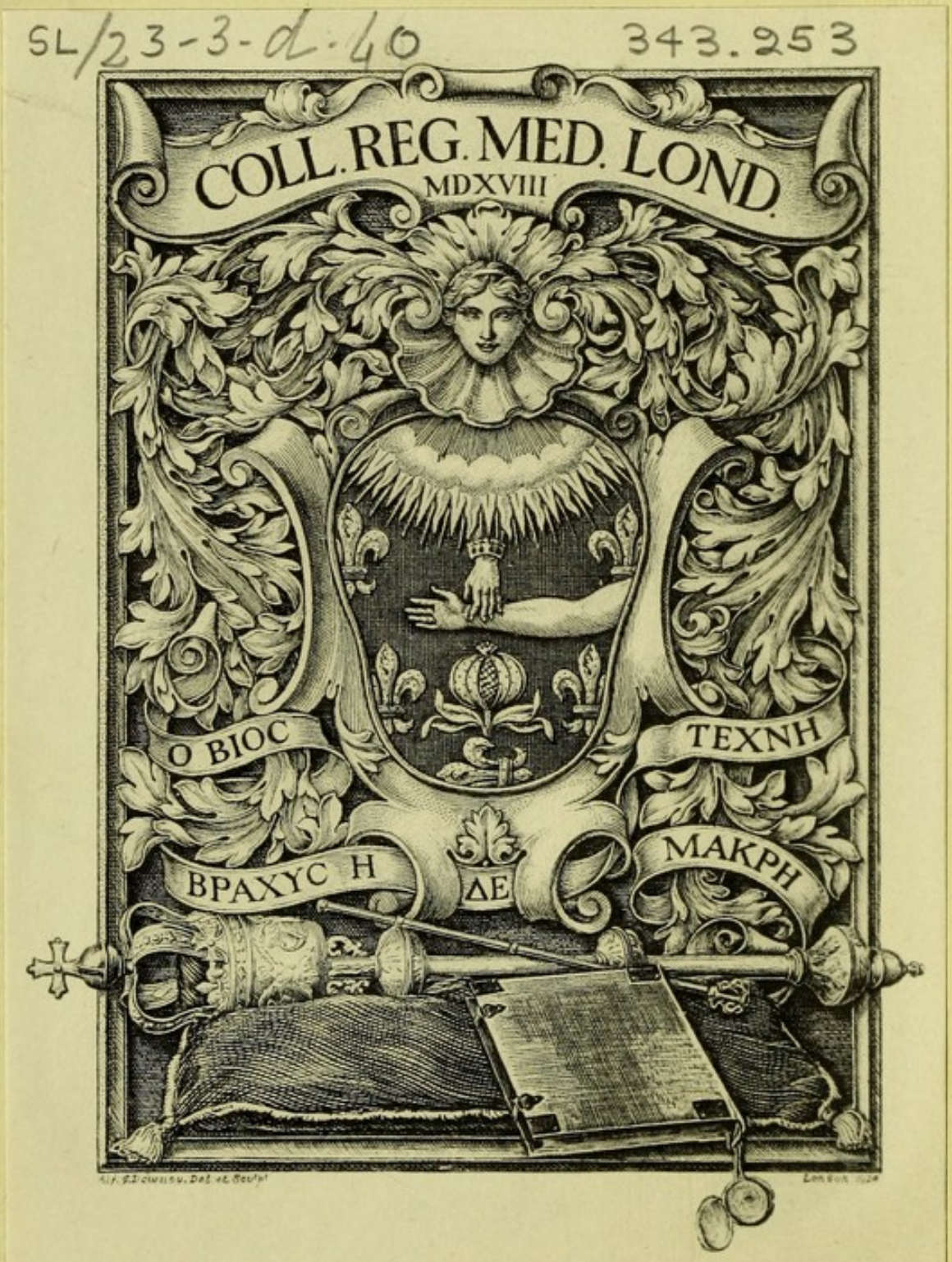
The law on its trial or, personal recollections of the death penalty and its opponents / by Alfred H. Dymond.



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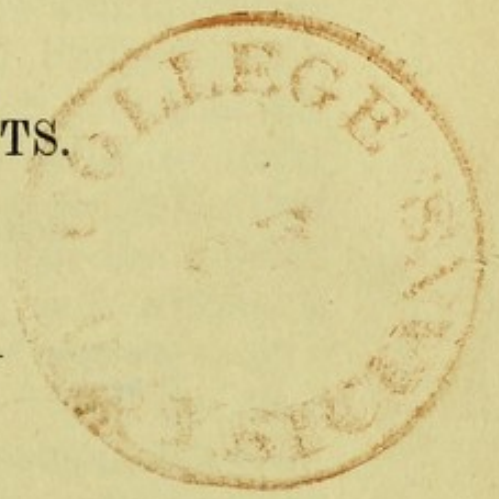

BY

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INTRODUCTION.

The following pages may be considered my humble addition to the mass of evidence collected by the Royal Commission appointed last year "to inquire into the nature and operation of the laws under which Capital Punishment is inflicted, and the manner in which it is inflicted, and to report whether it is desirable to make any alteration therein." It is not probable that the few weeks still remaining before the present House of Commons is dissolved, will witness a discussion of the Commissioners' report, even if it be laid before that assembly; but the time that must elapse before a new Parliament assembles, may afford opportunity for agitating the question with purpose and effect.

To those of my friends in London and the provinces by whom, in past years, my efforts in relation to this cause were so generously seconded, I need offer no explanation or apology for thus tendering my evidence against the law now put upon its trial. To others I may briefly state that, from 1850 to 1857, my connection with the Society for the Abolition of Capital Punishment afforded opportunity for continually watching the operation of the death-penalty, especially during the last four years of that

period, when I was the regularly appointed Secretary of the Society.

Whilst desirous of paying a tribute of respect to some now passed away, who were in their day the main supporters of the cause in whose advocacy I was permitted to take part, I have not leisure to devote to writing a history of the movement in favour of the amelioration of the criminal code. Had I set myself such a task, I would have endeavoured to do justice to many who are gone, and to others still left, to witness, let us hope, the final consummation of their labours in the total abolition of Capital Punishment.

Let me say that, as I repudiate all claim to be considered a philanthropist—for my interest in the subject of Capital Punishment was, as I have indicated in the following chapters, almost a necessary consequence of my early associations—so neither do I claim for my book any literary merit. Let it be regarded rather as rough jottings from the recollections and notes of one on whom circumstances have, for the last eight years, imposed a somewhat rigorous abstinence from all share in public agitation, but on whose memory come often crowding up reminiscences, in which the pleasant and painful are strangely mingled, of a time of busy active exertion in what was to him most emphatically a labour of love. I must not, however, be understood to take the credit of having laboured single-handed, or to have been the direct means of achieving many of the gratifying results recorded in my narrative. Various independent

agencies were frequently at work, and it would ill become me to rob others of their due. As the representative of the Society, I received the generous support of its committee and assistance from many whom it is impossible to name in these pages.

Necessarily incidental to such a topic are some references I would gladly avoid, could I do so with justice to the cause on behalf of which I write. I have sought as far as possible to omit details offensive to the reader's sense of delicacy. Some of my co-labourers will notice omissions of cases in which they may themselves have taken an interest. It has appeared best, however, to compile a small volume of those most likely to be of value in the anticipated discussions of the question, although this may have imposed upon me the necessity of excluding many I would gladly have placed upon record.

It is proper to mention that a considerable portion of the sketch of Barry's career appeared originally in the columns of the *Morning Star*. I have extracted several of the cases in which he and his friend Sydney Taylor were interested, from the volumes of Selections from the *Morning Herald*, published by the Society for Diffusing Information, &c. A narrative of the trial of William Ross, and its attendant circumstances, appeared at the time of their occurrence in the *Eclectic Review*, from the pen of the late Mr. Frederick Rowton, whose premature death will ever be lamented by those who knew his ardent zeal for our cause, and the ability by which his advocacy was distinguished. To

the *Psychological Journal* I am indebted for the assistance afforded by a most admirable article on the case of Buranelli. I must especially acknowledge, too, the kind assistance rendered by Mr. William Tallack, the present energetic Secretary of the Society for the Abolition of Capital Punishment.

With reference to that association, I would remark that a large claim will be made upon its resources when the question comes up for debate and public discussion. It is to be hoped that the ensuing winter may afford an opportunity for public meetings to be held of sufficient importance to produce an effect upon the Legislature. Such efforts, however, require means, which those who are able should not hesitate to supply. I can testify to the assiduity with which the Committee of the Society has sought for evidence to lay before the Commission, and have reason to hope that its labours in that direction may prove to be productive of the most satisfactory results. The appearance, too, of the Honorary and Acting Secretaries at Social Science Meetings and elsewhere, has been of great value to the cause; and whilst desiring to see, during the ensuing winter, some bold and vigorous action on the part of those who have assumed the direction of the movement, I should do wrong did I not suggest to my readers that a "committee of ways and means" is always a necessary preliminary to active hostilities.

A. H. D.

BRIXTON,
May 15th, 1865.

CHAPTER I.

Early Reminiscences—Rick-burning—An Innocent Man Saved from Death—Mr. Peter Bedford—Unexpected Sentence—Narrow Escape—Free Pardon—A Gentlemanly Robber—"Captain Johnson"—Forgery—A Condemned Boy—Thieves' Council—Dr. Lushington—Fowell Buxton—Vain Intercession—A Strange Adventure—Forgery Prevented—Caroline Hatfield—Child-Murder—Mr. Charles Gilpin—Mr. Humffreys Parry—Chief Justice Wilde—Not Guilty—Sheep-stealing—Fatal Mistake—Trial, Conviction, and Pardon.

If I were asked when first I conceived a deep and unqualified aversion to capital punishment, I should have to go back to an incident which occurred when I was but a little child, not quite six years of age. Although only one of those events which were plentiful enough in every assize town thirty odd years ago, the impression it made has never for one moment been effaced, and the recollection of it comes up as fresh to my memory as though it had happened but

yesterday. In our county town the summer assizes were held once in two years, Croydon alternating with Guildford in the honour of receiving His Majesty's judges. One day, whilst the trials of prisoners were proceeding, we happened, in the course of our daily walk, to pass the Town-hall. It was evident that something of considerable interest had attracted a crowd to the doors and windows of the court-house. Suddenly a succession of piercing shrieks fell upon our ears, and a woman was half led, half carried across the road, all the while calling frantically, "O mercy! mercy! O my poor brother! O, have mercy on my poor brother!" She was dressed in white, I remember; and appeared to be a person something past middle age; but Oh! the unutterable agony of her face. Never from that hour have my eyes rested on such an image of hopeless, despairing misery. And I remember that there seemed in my child nature to rise up a protest, stern and impetuous, against the law, when, in answer to our inquiries, the passers by told us that for some ordinary felony the brother of the distracted woman had received sentence of death.

We had, too, a fireside story in our family which greatly tended to strengthen the impressions thus early created. At the commence-

ment of his married life my father lived near the county town of Ipswich. One day a man without a hat knocked at the door and begged. The servant, anxious to be rid of the tramp's importunities, referred him to her master, who was working in his garden, which skirted the high road. Whilst they were in conversation another member of the family came into the garden to call my father to dinner, and also saw the beggar, who went his way, and was forgotten. Several months afterwards an influential gentleman of the neighbourhood called at the house, and recalled the beggar's visit to my father's recollection. At that moment the man was lying in the county prison, awaiting his execution for, as was alleged, firing some ricks at a place miles away, at the very time he had been talking to my father across his garden hedge. So confident had the poor fellow felt of his innocence and consequent acquittal, that he had taken no means to prove the *alibi*;—three days only remained before he must suffer, and nothing but the most positive and precise evidence in his favour could now be expected to have the effect of averting his doom. But, fortunately, three persons had seen him when he begged, and, by a visit to the condemned cell, they were able to confirm each other's

opinion as to his identity; then the date was fixed by referring to the tradesman's account for the gardening tools, which, as it happened, had been bought and brought home on that morning only, and the exact hour was ascertained by the punctual summons to dinner. The gentleman who had so humanely interested himself, having conferred with the sheriff, they posted to London together, and, returning with a reprieve, had the unspeakable satisfaction of averting a judicial murder.

With hundreds of others, it was my privilege to enjoy from youth to manhood frequent and friendly intercourse with one whose life of active philanthropy has lately closed, but whose beneficial influence, especially on the minds of young men, can be estimated only by Him who has welcomed His good and faithful servant into the fulness of eternal rest.

Mr. Peter Bedford was long an ardent labourer for the amelioration of the criminal code of England. Carrying on the business of a silk manufacturer in Spitalfields, he obtained a well-earned reputation both for the excellence of his fabrics and the benevolence of his heart. I remember hearing that he once laughingly challenged the opinion of a saucy fellow, who professed himself to be skilful in physiognomy; "Well, Mr. Bed-

ford," replied the philosopher, "I should say you have a very benevolent forehead, but a money-getting chin."

My acquaintance with him, however, dates from the time when, the "money-getting chin" having done its work, the "benevolent forehead" would shine benignantly on a group of visitors, who listened, with eager attention, to the stories of the good man's past life and experience. Let me endeavour to recal some of them to memory.

Up to the year 1832, stealing to the value of £5 from a dwelling-house was punishable with death, although, for a long time previous to its abolition by law, the penalty had ceased to be inflicted. In the town of N—— resided a young man of good family, but whose misconduct had long occasioned great annoyance to his friends. His misbehaviour having extended itself to repeated acts of dishonesty, one of his relatives, a single lady, determined to put a stop to his career.

Expecting a visit from him, she placed in a drawer, to which he would have ready access, a sum of money exceeding £5 in amount. The luckless youth fell into the trap, and speedily found himself in the hands of the officers of justice. His trial occurred in due course; and, probably on account of his previous bad

character, but to the surprise of all and to the intense dismay of the prosecutrix, the court condemned him to death, and the judge quitted the town, leaving him for execution. Still no one believed he would be hanged. It was imagined that, after a proper effect had been produced by the sentence, a reprieve would be graciously accorded, and the penalty commuted. But, alas! these hopes were not realized. The Mayor of N—— had been to London on business, and was returning home when, as he approached the town, he saw all the grim preparations for an execution. The coach had hardly stopped before he was accosted by the sheriff, who begged for his advice. They both came to the conclusion that the omission to send down a reprieve was the result of oversight at the Home Office, and at last decided to take the responsibility of postponing the execution, and posting to London to set matters right.

Arriving at Whitehall, they sought an interview with the Under-Secretary, the chief Secretary being absent. The Under-Secretary listened with grim politeness to their story, and then dismayed them with, "There is no mistake at all in the matter, gentleman; the evidence has been fully considered, the judge holds to the opinion that this is a case for capital punish-

ment, the Secretary of State agrees with the judge, and you must bear the responsibility of having ventured to interfere with the course of the law." But, though startled, they were not cowed by this outburst of official wrath; they returned to the charge, stuck with true English tenacity to their man, detailed all the circumstances tending to a mitigation of his offence, and at last had the satisfaction of quitting the metropolis with a reprieve in their hands, that reprieve being speedily followed by a FREE PARDON. The young man thus providentially rescued from a shameful death never forgot the lesson;—he became a reformed character, and year by year, as the anniversary of his unexecuted sentence came round, would dine at the Mayor's table, wearing a shroud instead of a shirt. At length his friend suggested that the gloomy emblem of death might be dispensed with; and, though they still dined together, the shirt was allowed to take the place of the shroud.

Another anecdote, not however bearing on the question of capital punishment, was substantially as follows:—

A nobleman, residing in the west of England, was one day alone in an outlying portion of his estate, when he was suddenly accosted by a

young man, who, stepping from the cover, presented a pistol, and demanded, "Your money, my lord!" His lordship, though taken aback at this unexpected summons to stand and deliver, retained his presence of mind, and, courteously addressing the robber, assured him that, at that moment, he had no money about him.

"Then your watch, my lord," was the response.

"Well," rejoined the peer, "the watch you can take if you will; but 'tis an old family heirloom, and I should grieve to lose it;" then, considering a moment, "Money would be more useful to you than a watch; tell me frankly how much you require."

He mentioned the sum.

"Then come to me to-morrow, and you shall have what you demand."

"But your lordship must see that such a course is impossible to one whose life would then be in your hands."

"You shall come to no harm if you meet me."

"On your honour, my lord?"

"On my honour!" and the robber disappeared.

Next day, the nobleman was about sitting down with a large party of guests to dinner,

when his presence was requested by a stranger, who declined to entrust the servant with either his business or his name. Excusing himself to his friends, he desired that the unknown visitor should be shown to his study. They stood face to face, and the nobleman recognized the robber.

"You see," said the latter, "I have come according to our agreement:" and the peer proceeded to count out the money he had agreed to pay the day before. The young man, apologizing for the necessity which compelled him to do so, took it, and was about to leave, when the nobleman, whose feelings were greatly interested, stopped him, and insisted that he should join his guests at the table. The robber hesitated, and urged his peculiar position as an excuse; but his friend was not to be denied, and, announcing "Captain Johnson," led him to his seat. During the evening, "Captain Johnson" was the life of the company, delighting every one with the brilliancy of his conversation and his charming address. At last he rose, and, reminding his noble host that he had duties to perform elsewhere, quitted the room. The nobleman followed him out, and, assuring him of his warm interest on his behalf, tendered both money and influence if his young ac-

quaintance would renounce his present mode of life, and rely upon him as a friend. The young man was deeply moved. "Many, many thanks," he said, "for all your kindness. I, indeed, am too deeply compromised to permit of changing my mode of life; but your lordship may depend that neither you nor yours will ever be molested again. And so they parted for ever.

In Spitalfields was a public day-school, in which Mr. Bedford took a deep interest. One of his colleagues on the committee of management was a gentleman named H——. This person had exerted himself most strenuously to save the life of an unhappy man sentenced to death for forgery. One morning, whilst Mr. Bedford was at breakfast, H——, greatly excited, entered the room. He had just returned from Newgate, where he had passed the night reading the Scriptures to the condemned man on whose behalf he had pleaded in vain, only leaving him at last at the foot of the gallows.

Throwing himself into a chair, H—— gave way to a passionate outburst of emotion, and it was long before the gentle and soothing words of his friend could restore his calmness. Some months passed away, when Bedford received information which roused his suspicions respecting H——, in a manner the most unexpected.

One of the boys in the school had received much attention from H——. The lad wrote a good hand; and the master discovered that H—— had caused him to sign a document, which was most suspiciously like a bill. The occurrence was at once communicated to Bedford, who lost not a moment in sifting the matter thoroughly. It was too true that H—— had induced the unsuspecting boy to commit, on his behalf, a deed, that, if detected, would probably have cost the lad his life. Bedford proceeded at once to H——'s home. He was not there. Bedford waited hour after hour, dreading lest his intervention should be too late, but determined not to give up his attempt to prevent the completion of the fraud. At last H—— entered the room. Bedford locked the door. In a voice that could be stern when needful, and with an eye that could pierce the guiltiest purpose, he demanded the forged instrument. H—— attempted to prevaricate; but the threat at once to hand him over to the police brought him to his senses, and he placed the document in Bedford's hands. "H——, *thou art a villain!*" closed the interview, nor would Bedford ever again hold communication with the culprit.

Another case that roused his deepest sym-

pathy was the conviction and sentence to death of a boy named Knight, for picking a gentleman's pocket of a watch. The prosecutor swore positively that Knight had taken the watch from his pocket: that he had caught him in the act, and held him till the constable arrived.

The boy, in his defence, declared that not he but a comrade had taken the watch; that he had, it was true, made the first attempt, but failed; the other boy rushing up immediately and succeeding, whilst he (Knight) was seized by the prosecutor.

Mr. Bedford possessed a marvellous influence over the young thieves of the City, and wonderful stories are told of the use to which he applied it. On this occasion he and his friend Dr. Lushington determined to obtain evidence, if possible, of the truth of Knight's story from some of his old companions. Accordingly they went together to a coffee-house of low repute, the resort of the young thieves of Spitalfields, and had a private meeting with a number of them, at which they ascertained beyond doubt that Knight's story was true, and that he was guilty only of the minor offence of *attempting* to commit the robbery. Finally, the father of the condemned boy obtained the prosecutor's watch from the pawnbroker with whom the real

thief had pledged it. With these facts, Mr. Bedford and Dr. Lushington went to see Lord Sidmouth, strengthening themselves by the company of Mr. (afterwards Sir Fowell) Buxton. The minister admitted that their statements excited grave doubts in his mind, but suggested the difficulty of throwing discredit on the positive assertions of the prosecutor, a person of undoubted respectability. Still, so favourable did Lord Sidmouth appear that two of the party felt confident of success. Mr. Buxton, better versed in the workings of the official mind, was less sanguine. Alas! he had too much cause. Poor Knight was executed, adhering to his story of the affair to the last. I often heard Mr. Bedford allude with deep emotion to the failure of his humane efforts, and to the painful interview with the weeping boy in the condemned cell of Newgate.

Mr. Bedford possessed to its fullest extent, that belief in the directing influence of the Holy Spirit, which is so distinguishing a characteristic of the Society of Friends. The following account strongly exemplifies his faith in the Divine Guidance. He was well acquainted with an individual whose name came more than once before the courts of criminal law, and whose life ended, though many years after the

occurrence of the incident I am about to relate, upon the scaffold. At that time he was recently married and resided in London. One night Mr. Bedford felt a strong conviction that he must pay T. a visit, although, for what reason he could not tell. However, in obedience to the promptings of duty he went to the house and knocked. T. was not at home. Distrusting his impressions, Bedford turned away, but still could not get rid of the strange impulse. For some hours he paced the street. At length he knocked again, and T. himself opened the door. In tones that never fell unheeded on the listener's ear, Bedford described under what circumstances he had come at so late an hour, and besought the astonished T. that, if he were about to commit any act that was wrong or questionable, he would take the warning thus mercifully accorded. The man burst into tears, and, producing a forged instrument from his pocket, tore it in pieces before the eyes of his visitor, who was scarcely less astonished than himself. But, alas! for the weakness of human nature. Poor T. once again fell into temptation, and uttered a forged bill. In accordance with a frequent practice, he was allowed by the prosecutor to save his life by pleading guilty to the minor offence of "having it in his possession," and so received

sentence of transportation instead of death. In Australia he amassed a fortune, and, at the expiration of his term, returned to England. There he formed a connexion with one whom he afterwards murdered, and, under circumstances of a most remarkable character, was brought to trial, convicted, and hanged. In the condemned cell his old friend and counsellor did not forget him. Within its gloomy walls the pure-minded and the guilty wept bitter tears together; and, if it be true that "the prayer of a righteous man availeth much," the supplications of him who comforted the prisoner were not unheard in heaven.

In the year 1847, circumstances first brought me into contact with the question of capital punishment. At Limpsfield, in Surrey, a girl, named Caroline Hatfield, was taken into custody for poisoning her child—a boy—about a year old, by administering laudanum.

The circumstances of the case came to my knowledge in the course of a business visit to the place, which was all astir with so important and exciting an episode in the history of the little village; and I soon found that, to be suspected amongst these honest folks was to be found guilty, and executed in anticipation. It was evident, too, that there were persons whose

reputations might suffer if Hatfield was acquitted; for, their *laches*, rather than the act of its mother, had possibly caused the death of the child. The poor girl herself was utterly friendless;—her own living was gained by field labour, and her aged parents were inmates of the parish workhouse. A knowledge of these facts stimulated us to take some steps towards exciting an interest in the case amongst persons who, like ourselves, held capital punishment in abhorrence. At that time more need existed than of later years for timely action, for it was not then established by a host of precedents that child-murder by women should be regarded with merciful consideration by the Crown. We conferred, in the first instance, with Mr. Charles Gilpin, who had but recently resuscitated the movement in favour of abolition, with which, for twenty years since, his name has been closely identified. Our acquaintance, formed under these circumstances, led to my subsequent connexion with the Society whose operations Mr. Gilpin had just inaugurated.

His advice was in favour of defending the prisoner energetically on her trial, as for various reasons the issue of an appeal for mercy after conviction seemed to be very doubtful. Our interview led to a small fund being raised for

the defence, which was placed in the hands of a well-known criminal solicitor, who retained the services of a young but rising barrister, already identified in sentiment with our cause.

This was not the only occasion by many an one in which I had to recognize with gratitude the hearty co-operation of Mr. Humffreys (now Serjeant) Parry.

A difficulty presented itself, however, for which I was not prepared. We heard that a country attorney had volunteered to defend the girl if some very small sum—far too small to secure efficient legal assistance—were forthcoming by a given day. The poor old pauper parents had actually raised a trifling amount, which was already in the hands of the provincial lawyer; and the old folks displayed, at our interview in the workhouse, not a little hesitation at suspending their own humble, but earnest efforts, to save the life of their child, upon the advice of a young man, an entire stranger not quite twenty years of age. But, as we talked, the master of the workhouse joined us; and, discovering that some "Quakers" were at the bottom of the movement, of the virtues of which sect he had seen the best possible specimen in the person of the venerable and philanthropic William Allen, whom he had known at Lind-

field, he assured the doubting pair that the "Quakers" might be implicitly trusted as perfectly disinterested and well-intentioned. This decided them, and I left; but I confess that a feeling of uneasiness and responsibility rested upon me when reflecting on the possible self-reproach of those poor souls if our exertions were not crowned with success.

The trial took place at Kingston Spring Assizes before Chief Justice Wilde, afterwards Lord Truro; and I will do him the justice to say, that if I had needed a dread of the law to keep me from evil, the strongest possible restraining influence would have been the fear, lest his lordship should be my judge. It was not his fault, at all events, if criminals escaped from the meshes of the law's net; and our hope of an acquittal was not increased by stories that reached us of the temper the Chief Justice had displayed upon the same circuit when presiding at other trials for child-murder.

Our case at last stood second on the list when the court met. Some short trial was gone through, and then Hatfield was placed at the bar. It was the first time I had seen her, and she was certainly but an unpromising specimen of feminine humanity. The grand jury had thrown out the bill on the charge of

murder, but found a true bill for manslaughter. Nevertheless the trial proceeded on the coroner's inquisition. The questions really to be decided were these:—Had the prisoner administered the drug with intent to destroy the life of the child, or only, as thousands of other poor labouring women do, to quiet it during her hours of work? Or, secondly, was the death of the child directly attributable to the act of the mother, or to the negligence of the parish doctor and his assistant?

The case for the prosecution was in the hands of a humane counsel, who evidently desired not to go one inch beyond the line of his duty. When the time of the defence came, Mr. Parry raised a technical objection to the form of the coroner's commitment, arising out of the child being illegitimate. With a very bad grace, and as it seemed to me, in a most begrudging spirit the judge directed an acquittal on the capital charge; it therefore remained for Parry to defend his client on the manslaughter indictment only. Throwing his whole heart into the work the advocate launched a torrent of invective against the luckless doctor and his assistant, exposed the gross carelessness of "those salaried servants of the paupers," who had neglected for days to visit the little patient, drew a vivid

picture of the poor mother's sufferings as she trudged wearily for parochial relief and shelter for miles over the snow-covered country roads, and fearlessly challenged the issue on which the fate of his client must depend.

The summing-up, as we expected, was unfavourable to the prisoner; her counsel had even to remind the judge of some omissions of importance, but the jury returned a verdict of Not Guilty, and Hatfield was at once set at liberty. After her return home, an effort was made to obtain her admission into the "Elizabeth Fry Refuge;" but, as the order was being made out, that strange waywardness, which so frequently characterises the class to which Hatfield belonged, induced her to reject it. She went home to the place where her story was on the tongue of every gossip; and after an unhappy life of little more than a year, her faults and sorrows were terminated by death.

Whilst we were waiting for the trial to come off, I recollect our solicitor giving me an account of a conviction for sheep-stealing, in which he had prosecuted one of the last persons, if not quite the last, punished capitally for that offence. A man dressed in a coat of singular make and colour, had driven the stolen sheep past the

Elephant and Castle at Newington, and was noticed by various persons. In the prisoner's house a coat answering perfectly to the description was found, and some mutton, moreover, was cooking at the fire. The coat being put upon the prisoner, witnesses swore positively to his identity; and the man had no answer, but a simple asseveration of innocence. He was convicted and sentenced to be hung. Still his manner impressed the prosecutor's attorney so strongly in his favour that he visited him in prison, and urged the convict to give him some explanation, which would afford ground for an appeal for mercy. But the poor fellow only asserted, "I am innocent!" He was executed. Then the truth came out. His own son had borrowed his father's coat, when he committed the crime for which his parent suffered death.

Just three years after the trial of Hatfield, another child-murder trial took place at Kingston-on-Thames; but this time it was the father not the mother who stood charged with the crime, and the proceeding ended in a verdict of guilty and sentence of death. I will say nothing of the details of the case, which was sad enough in its surroundings; although I could not then understand, nor can I now, how it came to pass that the man was convicted. Being appealed to

by persons resident at the assize town, who had grave doubts as to the justice of the sentence, I soon found evidence on which fairly to base the assumption that the infant had died from causes beyond the prisoner's control, and that he was entirely innocent. All we could learn, however, from the Home Office was, that the case was "under consideration," although the time for execution drew alarmingly near. One day, a knock came to my door, it was opened, and there to my amazement, stood,—the condemned man! I had not seen him before, but his lawyer had given him my address, and he came to acknowledge the exertions that had been made on his behalf. He said, that, after being placed in the condemned cell, he had steadily denied his guilt, although the reverend gentleman who then officiated as chaplain to the county gaol was most persistent in his endeavours to obtain a confession. "But how could I confess, sir," said the poor fellow, with the greatest possible simplicity, "when I hadn't done it? Surely, a clergyman wouldn't want me to tell a lie." But true or false, it seemed as though the one thing this pious divine required was confession, not general but particular. I have met with many of the same sort, who hold not so much that a man if guilty must be convicted, as that a man

convicted must be guilty. Hence it was that one day he entered the cell to make a final assault on what he supposed to be the obdurate heart of a murderer. "D——," said he, "I come to make one last appeal to you to confess that you are guilty." In vain did D—— protest his innocence; all expostulations, explanations or protestations were thrown away; and at last, losing his temper utterly, the chaplain rushed out of the room in a passion, slamming the door behind him. For some time D—— sat pondering sadly over his hard fate, unrelieved by one ray of hope. All at once footsteps approached the cell, the governor and the undersheriff entered. "Well, D——," said the latter, "I have brought you some news—good news, too; for the Queen has granted you a pardon, and you are a free man. Then the chaplain, who had lost no time in assenting to the propriety of the decision of a Home Secretary, would fain have engaged with the released prisoner in prayer and thanksgiving; "but," said D——, "I didn't much care for HIS prayers." I believe that the judge had never been fully satisfied with the verdict, and that the subsequent representations had been sustained by his favourable opinion.

CHAPTER II.

John Thomas Barry—The Forgery Laws—Sir James Mackintosh—Denman—Joseph Hume—Six Lives Saved—A Sanguinary Statute—Appalling Scene at the Old Bailey—The Law Defeated—Swallowing Evidence—Ewart's Reforms—Aglionby's Act—Ewen Hanged at Chelmsford—Innocence Proved—George Wren—Livingstone—"Eat the Ceiling Buffam."

In the summer of the year 1850 I had the privilege of being, for the first time, associated with one who, although during the period of his most active labours in the cause of justice and humanity he never figured prominently before the nation which benefited so largely by his disinterested philanthropy, exerted none the less a most powerful influence in promoting those ameliorations of our criminal code which have identified the names of Romilly, Mackintosh, Denman, Brougham, Sidney Taylor, Ewart, and others now living or past away, with the history of

social reform. Nor is it the less fitting that I should pay a posthumous tribute to his worth, because it was ever his delight to attribute to others the merit of achieving great successes mainly due to that ardent devotion to the principle of duty implanted in his own humble but noble heart.

Mr. John Thomas Barry was born in the year 1790, at Fratton, near Portsmouth. He was one of several children—the best known of his brothers being the late Dr. Martin Barry, of Edinburgh, distinguished for his researches in physiological science, and the author of an interesting description of an ascent of Mont Blanc, a feat which he accomplished at a time when such an exploit was far more dangerous, and correspondingly less fashionable, than it has since become. Mr. Barry, in early life, was articled to Mr. William Allen, the celebrated chemist, of Plough-court, Lombard-street. Mr. Allen appears soon to have discovered the sterling qualities of head and heart possessed by his pupil. Barry displayed a wonderful faculty for organization and improvement in the manufacturing department of the business. The laboratory was his principal field of action; and his care and skill in the preparation of chemicals and the choicer class

of medicines, combined with the high character and business abilities of his partners (for he became, in due time, a member of the firm), obtained for Allen, Hanburys, and Co., the great reputation that house has ever since most deservedly enjoyed.

Plough-court was the head-quarters of London philanthropy, and Barry soon allied himself with the pious plotters who held their meetings in Allen's parlour.

It was not, however, till 1828 that he took a prominent part in the agitation of the question with which his name must ever be identified—the abolition of capital punishment. A committee had existed before that date, of which Mr. William Allen, Mr. Basil Montague, and others were members, the object of which was to carry forward the work commenced by Sir Samuel Romilly for the amelioration of the criminal code. In the year above mentioned was formed the Society for Diffusing Information on the subject of Capital Punishment. Of this body Barry was the soul and leader.

Circumstances had very forcibly drawn public attention to the cruel impolicy of retaining the capital laws against forgery; and to their repeal the society at first appears to have more especially directed its attention.

There had just been executed for forgery at Newgate a person well known in the City of London—and who had occupied a most respectable station in life. No pains were spared to obtain a respite, every legitimate means by which the Ministry might be influenced was brought into play, but in vain. Let me, however, do justice to the condemned man. His offence was probably perpetrated without any intention to defraud—its discovery was accidental, and the affair might, like many others, have fairly been hushed up for fear of the consequences to the offender. Men, too, who might have severely judged him, were moved to compassion by the humble but heroic bearing with which he met his death.

This occurrence struck a reeling blow at the capital forgery laws; and, although their repeal was not all at once effected, public opinion revolted at their barbarity, and the way was paved for their total abolition.

The gallows, at this period, flourished in great vigour; for, in 1829, no less than twenty-four persons were hanged in London alone, although amongst these there was not one murderer. In 1830, Sir Robert Peel brought in his bill to consolidate the acts relating to forgery. Sir James Mackintosh moved an amendment on the third reading of the bill, the effect of which was

to abolish the capital punishment, except in so far as it related to the forging of wills and powers of attorney. At this critical moment Barry put forth all his marvellous energies. Correspondence with the provinces had to be maintained, statistics prepared and arranged, members of Parliament to be addressed through their constituents, and every possible pressure brought to bear on the Legislature in order to secure the success of the amendment. None but himself could ever really know the actual extent of the efforts by which Barry, almost single-handed, strove to accomplish his end. The philanthropist kept a list of friendly legislators who could be relied upon for "franking" his voluminous correspondence, and estimated that his anti-forgery law agitation alone required "franks" in lieu of postage to the value of a thousand pounds. The most remarkable evidence obtained by Barry of the growing opposition to the death punishment was a petition from more than a thousand bankers presented by Brougham to the House of Commons on the 25th of May, 1830. To such testimony the Legislature could not turn a deaf ear. Mackintosh's amendment was carried against the Government by a majority of thirteen. The Lords, however, took alarm at this innovation, and re-enacted the capital penalty.

In 1832 Sir Thomas Denman, then Attorney-General, brought in a measure totally to abolish death-punishment for forgery. Again Barry was at work with his correspondence, petitions, and statistics, and he had the satisfaction to see the bill go up to the House of Peers. By this time ministers and senators had become pretty well acquainted with the Plough-court Quaker. There was mischief in the wind when that tall, thin form, surmounted by the broad-brimmed hat, glided quietly through the corridors, and took its station in the lobby.

It was near the end of the session when the Lords took up the bill. After much discussion it came back to the Commons altered by the re-enactment of the capital penalty for the forgery of wills and powers of attorney. In this condition it was to be reconsidered by the Lower House on the very day appointed for the prorogation. And then occurred an incident which well illustrates the shrewd sagacity and determination of Barry. There lay at that moment in Newgate six will-forgers under sentence of death. Would they be hanged notwithstanding the Commons' vote? Would any Government venture thus to defy public opinion as represented by the popular branch of the Legislature? Barry received private informa-

tion that these convicts would certainly be executed if the bill, as altered by the Lords, became law.

Joseph Hume was then member for Middlesex, and a true friend to Barry's cause. The House met at noon, and proceeded to consider the Lords' amendments to the new Forgery Bill. The speech of the King, sanctioned at a council the day before, congratulated Parliament on the amelioration of the law relating to forgery. What if the passing of the bill should be deferred until Black Rod summoned the Commons to hear the Royal utterances, and thus the measure should drop through? Barry saw his advantage, and, in a conference with Hume, determined to use it. What if it should anger the Minister, or make the Royal speech ridiculous? Hume cared for no Ministry, and to Barry the life of a man was worth more than the pleasure of a monarch. When, therefore, the motion was made, "That the Lords' amendments be agreed to," Hume sprang to his feet. "He had heard," he said, "that if the measure, as amended, became law, it was the intention of the Government to allow certain persons, then under sentence in the county he represented, to be executed. He was sensible of the embarrassment such a step might occasion to Ministers,

but he would certainly divide the House upon the motion, unless assured that the new Act should have no such effect as he understood was contemplated." As he spoke, the boom of the cannon announced that his Majesty had set forth on his road to the House. Lord Althorp turned as if to explain or expostulate, when his eye rested on the quiet, determined countenance of Barry, as he sat below the bar. He saw in a moment who had planned his discomfiture—knew that Hume dare not retreat from his position with such a Mentor at his elbow. Nothing remained but capitulation. The required assurance was given, and the Bill was hurried through its last stage, just as the cheers of the people outside announced the arrival of the King. The Lords' amendments proved perfectly harmless, and no person ever after suffered death for forgery.

Yet will it be believed that, simultaneously with the struggle above described, a Liberal Government was silently passing through the Commons—every one of its stages being accomplished after midnight—what was ostensibly a mere finance measure, but really a law restoring capital punishment for certain descriptions of forgery. It figured in the Statute-book as an Act dealing merely with Exchequer business,

but contained the following sanguinary provision:—"If any person or persons shall wilfully, falsely, and deceitfully personate any true and real nominee or nominees, or shall wilfully utter, or deliver, or produce to any person or persons acting under the authority of this Act, any forged register or copy of register of any birth, baptism, or marriage, or any forged declaration, affidavit or affirmation, knowing the same to be forged, counterfeited, or altered, with intent to defraud his Majesty, his heirs or successors, or with intent to defraud any person or persons whomsoever; then, and in EVERY SUCH CASE, all and every person and persons so offending, and being lawfully convicted thereof, shall be adjudged guilty of Felony, and suffer Death."

On the back of this infamous fraud upon the country that had put faith in their disposition to repeal the capital forgery laws, were the names of Lord Althorp and Mr. Spring Rice. Barry never forgot nor forgave it, and it always clouded over those feelings of gratitude with which he had regarded Denman. A correspondent apprized him of the trick, and no attempt was ever made by the conspirators to give effect to their sanguinary designs.

The information collected by Barry, during the anti-forgery-law agitation, disclosed a system

of injustice and inconsistency at which he might fairly stand aghast. In one of the incidents related in the foregoing pages, the practice of allowing persons charged with forgery to plead guilty to the minor offence of "having possession" is alluded to. Every humane prosecutor was satisfied thus to avoid the awful responsibility of consigning the offender to the gallows. But, on the other hand, not a few persons actually pleaded guilty to the minor charge, although entirely innocent, in order to avoid the risk of a trial for the capital offence.

Mistakes, however, at times occurred, and in the excitement of the moment prisoners pleaded to the wrong indictment, and thus added to the general difficulty. A writer in the *Edinburgh Review* drew the following appalling picture of a scene at the Old Bailey sessions in 1818:—

"*Thirty-eight* persons were arraigned on the *capital* charge of forging notes or knowingly uttering them; and *also* on the minor charge of knowingly possessing them. A scene appears to have taken place among these wretched persons, very unsuitable to the deliberation and gravity of a court of justice. Such was the general confusion, that one prisoner pleaded *guilty* to the capital charge, and *not guilty* to the inferior charge. Another confessed his guilt,

retracted, and afterwards repeated his confession, and at last pleaded not guilty. As the trials advanced, the JURIES began to manifest that they shared the general feeling of their countrymen. One jury desired that the forgery of the signature to the note should be proved by the *signing clerk* whose name had been used, instead of the *Bank inspector*, whose evidence had hitherto been thought sufficient. On the next day, a juryman declared that he was not satisfied by the affirmation of the witnesses that the notes *were* forgeries, and that he desired to ascertain *how* these witnesses knew them to be so. Latterly, the ordinary course of the Bank had been to indict for the transportable *as well as* the capital offence; to forbear offering evidence to affect life against forgers who had *pleaded guilty* on the charge of knowingly possessing counterfeit notes, but to proceed to the *last extremity* against all who refused to own that they were guilty of that offence. On the 18th September, two women, in spite of the sincerely humane advice of the prosecutors and judges, refused to purchase life by the confession of their crimes. The first, a miserable unfortunate, alleged that she had received the forged note from a man unknown to her—one of those defences which might, in her case, be true, and

yet impossible for her to prove. She was convicted. *The other woman, unappalled by this example, persevered in her plea of not guilty, and was acquitted.* Had this woman accepted the proffered mercy of her prosecutors, we must now suppose that she would have been unjustly transported. It became apparent after her acquittal, that *many innocent* persons might have suffered that punishment; that the *life* or *death* of those who were charged with forgery might often depend on their possessing nerves strong enough to encounter the danger of a capital trial; that bold guilt might often escape, and timid innocence frequently suffer.

In "Vacation Thoughts on Capital Punishment," by the late Mr. Charles Phillips, the fearful evils of the system are described with graphic effect. I need, therefore, only glance at a few of the cases brought to light by Barry's agitation.

A man was tried at Carnarvon for forgery to a large amount on the Bank of England. The evidence was as satisfactory of the guilt of the prisoner as possible, and brought the charge clearly home to him. The jury, however, acquitted him. The next day the same individual was tried on another indictment for forgery. Although the evidence in this case was as con-

clusive as in the former one, the jury again acquitted the prisoner. The judge (Chief Baron Richards) in addressing the prisoner, expressed himself in these remarkable words:—"Prisoner at the bar, although you have been acquitted by a jury of your countrymen of the crime of forgery, I am as convinced of your guilt as that two and two make four." A short time after the conclusion of the sessions, a person who met one of the jurymen, expressed his surprise at the acquittal of the man who had been tried for forgery. He immediately answered in the following words:—"Neither my fellow-jurymen nor myself had the least doubt of the prisoner's guilt, but we were unwilling to bring in a verdict of guilty, because we were aware the prisoner would have been punished with death, a penalty that we conceived to be too severe for the offence."

A solicitor stated that a man, after dining at his house, prevailed on him (the solicitor) to discount a bill, which afterwards proved to be a forgery. The solicitor remarked, "Of course I could not think of hanging the man."

A banker said that his name had been forged as the acceptor of a bill of exchange; and that, recollecting the severity of the law, rather than divulge the circumstance, he *acknowledged the acceptance to be his*, and *paid the money*.

At another place, a banking firm intimated that they might be somewhat like *continually* prosecuting for the crime of *forgery;* but that, owing to the law attaching to the offence the punishment of *death*, they never for a moment entertained the idea of resorting to it.

The prosecuting attorney, in a case of forgery, indicted the man for the *minor* offence—the judge at the trial, *perceiving* the contrivance, reprimanded the solicitor in open court, and caused the prisoner to be kept in custody, to be tried for the *capital* offence at the following assizes; but the prosecutor would *not* be instrumental to depriving the offender of *life*, and an *acquittal* was successively *contrived.*

Mr. Henry Sparkes, a member of a banking firm at Exeter, was required to give evidence of the forgery of a note. He crushed it between his hands, and swallowed it like a bolus, thus destroying the only proof of the crime. Mr. Sparkes was a most energetic correspondent of Barry's; and, by his humane co-operation, rendered much valuable aid. So long as the law remained in force, constant vigilance on Barry's part was necessary, lest the practice, although apparently obsolete, should be unexpectedly resuscitated by the Home Office, which department of the State the philanthropist held in very small estimation.

In 1831, the Government of Earl Grey, although the same men had sustained Mackintosh's endeavours in 1830 to secure the total abolition of the capital forgery law by amendments to Peel's measures, did actually contemplate the execution of two men named Calvert and Collier, who had been convicted, at the Lancaster Assizes, held in the spring of that year, of forging bank notes. Even the Tory Secretary, Sir Robert Peel, had shrunk from sanctioning the execution of an attorney who had forged some deeds—the most dangerous form, perhaps, of that serious offence—the criminal having been convicted a year and a half before, in the same town that witnessed the sentence upon Calvert and Collier. The latter point was brought distinctly to the notice of the executive, and Collier and Calvert were reprieved. This, with the exception of the threatened severity, so timely averted by Hume in the House of Commons in the following year, was the last attempt to insult the common sense and humanity of the country by an execution for forgery.

Judging by the legislative measures for the amendment of the criminal law, Barry's course for some years was marked by splendid successes. The year 1832 had witnessed in addition to the passing of Denman's forgery bill the abolition

of capital punishment for false coining, and also for horse-stealing, sheep-stealing, cattle-stealing, and stealing in a dwelling-house, the last four measures being carried by Mr. William Ewart. In 1833, Mr. Barrett Lennard carried his proposition to exempt housebreaking (as distinguished from burglary) from the extreme penalty of the law. In 1834 and 1835, on the motion of Mr. Ewart, returning from transportation, stealing letters from the Post-office, and sacrilege were removed from the catalogue of offences punishable with death; and in the former year the disgraceful provision for "hanging in chains" was erased from the statute book, attempts having been made to revive that odious practice at Leicester, and some other assize towns. In 1836, a bill passed into a law, on the motion of Mr. Aglionby, for putting an end to the custom of executing, within forty-eight hours after sentence, all persons convicted of murder—a custom which had occasionally cut off, with cruel precipitation, those whose innocence was discovered too late. In 1837, a large number of capital offences were at once swept away by Lord John Russell's Acts. They included "cutting and maiming," and rick-burning, for which the punishment of death was altogether abolished; and attempts to murder,

robbery, burglary, and arson, where it was reserved only in cases of extreme aggravation. The importance of these acts is best illustrated by the fact that the number of persons sentenced to death, which in 1837 amounted to 438, had fallen in 1839 to 56. In 1840, for the first time in the history of Parliament, a resolution for the total abolition of the punishment of death was moved by Mr. Ewart, and no fewer than 94 members voted in its favour. In 1845 the committee of the society could congratulate its members upon the fact, mainly the result of its labours, that whereas in 1829, the year after its formation, 24 persons had been hanged in London for offences other than murder, for twelve years preceding 1844 not one execution for any offence but murder had disgraced the metropolis.

But these successes were due in great measure to the perseverance with which Barry followed up every case which seemed to demonstrate the iniquity of the laws he assailed. Many were the stories of thrilling interest with which in after years he strove to excite in others the noble zeal which had characterized his own devoted efforts. He held that, with regard to a question on which public feeling must often prove fickle, and for which the

masses of the people could hardly be expected to sustain any long-continued agitation, the course for him to adopt was to demonstrate by continued and persistent efforts the injustice, impolicy, and inconsistency of the law in dealing with individual offenders. By this means the administrators of the law became converted by circumstances rather than by argument from open opponents into allies or supporters. This line of action necessarily brought him into contact and sometimes collision with men in power, who exhibited not unfrequently the usual amount of official dislike to his humane interference. In after years, even when apparently exhausted by sickness, he would dwell with animation on some of these incidents of the past.

In the year 1831, a man named Ewen was convicted of arson, in the county of Essex. The case enlisted a strong feeling of sympathy in the minds of others besides Barry, who had the most serious doubts of the man's guilt. Ewen had been convicted principally on the evidence of a person who was charged with being accessory to the same crime, and who deposed that Ewen had, without any conceivable motive or inducement, disclosed to him what he kept a secret from everybody else, namely, that he (Ewen) had committed the offence. Barry

sought an interview with Lord Melbourne, the Home Secretary, who knew him well by repute, and urged with energy the points favourable to the convict. But, unfortunately, the crime was just then very rife in the agricultural counties, four persons being executed on the Home Circuit alone. Lord Melbourne stood firm, but so did Barry. At length the minister lost temper and patience, and uttered an ejaculation which was neither respectful to Barry nor creditable to himself. They parted; and Ewen was hanged. Twenty years afterwards, when returning from an inquiry in Suffolk, I had for my travelling companions two barristers, coming to town from the Chelmsford Sessions. From one of them I learnt that the real culprit had lately on his death-bed confessed the crime of which poor Ewen had even on the scaffold protested his own innocence. Another case arising out of a charge of arson, occurred in the following year, that of George Wren, a youth only nineteen years old, whose conviction took place at Lewes under the following painful circumstances, described by Barry's own pen:—

"George Wren was imprisoned at Horsham, twenty-four miles from his home: himself penniless, and his parents in poverty, how was it possible he could obtain the necessary wit-

nesses to disprove a charge which rested upon circumstantial evidence, and consisted of many particulars? Although a country lad of only nineteen, he was without counsel, unless the maxim, that "the judge is counsel for the prisoner," were verified on that occasion; and yet, had such been the case, one or two discrepancies in the evidence should have turned to his account, as well as the absence of any malice towards the prosecutor. There was a difference in his favour between the workhouse and church clocks, which was a material point, as every thing hinged upon the time; and some thought that this was not sufficiently adverted to in the judge's summing up. When we recollect that the jury themselves might have been farmers, anxious to protect their own stacks from incendiaries,—that they might have heard an unfavourable report of Wren's character, though not spoken to in court; and that they showed their anxiety *to save his life*, by annexing to their verdict their recommendation to mercy, it is the less matter of surprise that, with a view to his being sent out of the country as a suspected character, they should have brought him in guilty. But it is surprising that he should have been left for execution; and that the judge should have declined to report in

favour of a commutation of the sentence, although a petition had been forwarded to the Home Office, signed, among others, by the foreman of the jury, stating that "the verdict was arrived at on presumptive evidence, and that of so slight a character, as in their opinion to bring the case of the unfortunate man within the exercise of the royal clemency." Wren suffered death, to the last moment solemnly protesting his innocence. He had been imprisoned seven weeks, and uniformly denied his guilt. In the gaol he wrote some letters to his parents. They cannot be read without painful emotion. The subjoined is an extract from one of them, written shortly before he underwent the sentence :—

"i Now took my pen for these last time to write to you Father Mother brother sister and All my Realtions wich [while] it is but a short time before i [am] called hence to apear before that tribunle Judge—may the lord have Mearcy on Me——wich [while] i took my trile before the Judge and Jury wich [while] they past the videct [verdict] of death on me—what i lay to heartt is— when it comes over me to think that on [one] fleow [fellow] creature should Swear a nother folowe creature life away worngfuly—— i write to you the Sentement of mind to tell you

that when i Mount the Fatle Sacffold [fatal scaffold] that the lord from heaven Nowes that i ams inocent As child unborn."

"No man," continues the writer, "of proper feelings will indulge a contemptuous smile while he looks at the production of this poor untutored boy. He will be reminded of the eloquent appeal of Livingstone (in making his 'Report to the Legislature of Louisiana'), when he said—'I have seen in the gloom and silence of the dungeon the deep-concentrated expression of indignation which contended with grief; have heard the earnest asseverations of innocence made in tones which no art could imitate; and listened with awe to the dreadful adjuration poured forth by one of these victims, with an energy and solemnity that seemed superhuman, summoning his false accuser and his mistaken judge to meet him before the throne of God."

Barry himself visited the scene of the fire, and collected evidence which showed that Wren could not be guilty. The unhappy youth had been among the first to assist to extinguish the conflagration, and his early presence on the scene drew suspicion upon him. The foreman of the jury, in signing the petition declaring that Wren had been convicted only on *presumptive evidence*, called attention to the frank avowal

of counsel for the prosecution, that, although he had much presumptive evidence to lay before the jury, *it was not of that conclusive character which led him to expect a verdict.* This conduct on the foreman's part may seem inconsistent with his previous decision ; but juries sometimes are guilty of strange freaks, and it is probable that they were willing to get an idle fellow out of the country, whilst implying, by their strong recommendation to mercy, their very grave doubts whether he was guilty of the particular offence alleged against him. All efforts failed, however, and Wren was hanged.

The horse, sheep, and cattle-stealer, or the incendiary, stood but a poor chance before a jury of farmers, though there were exceptions to the general tendency towards severity. Let me relate one illustration of this which was communicated to me on one of my journeys in Lincolnshire :—

In that county a man was tried for stealing a horse. The evidence seemed conclusive against him ; but the jury, after laying their heads together for some time, were locked up, one old fellow, a farmer named Buffam, refusing to coincide in the verdict of the rest. Argument failed to move the obstinate juror, although hunger sharpened the wits and pointed the

logic of his eleven companions. They tried persuasion; it failed: "he wouldn't hang *a man* for stealing *a horse*, not he, let what would happen." They tried threats; but Buffam was too sturdy to acknowledge a fear. At last they humbled themselves to entreaty, and pleaded that they were starving. "Well, starve!" said Buffam. "We shall get nothing to eat till we return a verdict," was suggested. "Never mind," said Buffam, I'LL EAT THE CEILING, but I won't give in!" This vow settled the dispute; consciences were adapted to circumstances, and "not guilty" was returned as the verdict of them all. But the affair was not soon forgotten, and the old farmer ever after went by the name of "Eat-the-Ceiling Buffam."

CHAPTER III.

Barry Continued—A Condemned Housebreaker—A Reprieve—Rioting and Machine Breaking—Conviction on False Testimony—Pardon—A Mistake Fortunately Discovered—Innocent Persons Convicted—Old Bailey Tragedy—Gibbeting Revived—The Law Defied—Ewart's Repealing Act—His Prisoners' Counsel Bill—A Juvenile Housebreaker—Conviction and Sentence Extraordinary—An Innocent Man Saved—Confession of the Real Culprit—Lord John Russell's Acts—Close of Barry's Career—His Character—His Death.

In the year that witnessed the execution of Wren, a happier result attended the efforts used on behalf of a man named Ellis, capitally sentenced at the Old Bailey for the crime of housebreaking. Monday was the day, as usual, for the execution. Only on the previous Saturday morning were affidavits and statements laid before Lord Melbourne, who entered immediately into the investigation, copies of the

documents being sent to the Lord Chancellor, who had not attended the Council, at which the case had been previously considered and decided against the convict. The result was, that before eight o'clock on the same evening the prisoner was on his knees, returning thanks to Heaven for being rescued from the peril of impending fate, while just within the deadly grasp of the executioner.

During the period that preceded the passing of the Reform Bill, the disturbed state of the country occasioned many sad ebullitions of violence, which resulted in the rigorous application of the law, and the execution of several misguided disturbers of the public peace. In the large towns of Nottingham and Bristol the suppression of the riots was followed by the holding of Special Commissions, and the conviction and sentence of numerous offenders. Machine-breaking, too, was rife in the country, and several capital convictions took place for that crime. It need hardly be mentioned that for all these unhappy persons Barry felt the most profound sympathy, convinced as he was, that not from a love of crime, but through sheer ignorance, they had rushed headlong to destruction. In the majority of cases, however, all attempts to interfere were fruitless.

In 1832, a case occurred in the Isle of Ely, which then possessed a criminal jurisdiction of its own, that gave a fresh impetus to the movement of which Barry was the leader. Two men, Robert Folkes and Levy Ladds, were charged before Chief Justice Storks with an offence of the most aggravated nature, the prosecutrix being, as was supposed, a married woman, known as Elizabeth Haythorpe. The woman swore positively to the identity of both men, nor could her testimony be shaken on cross-examination. Ladds fortunately proved an alibi so clearly as to secure an acquittal. It was strange that the jury, after thus discrediting the evidence as to Ladds, should, upon the same testimony, although quite unsupported, convict Folkes.

Another important fact, calculated to excite doubt, was this. The prosecutrix swore that she told the whole of what had happened to a woman, who was called on behalf of the *prosecution*—but who, when placed in the witness-box, as positively swore that, although the prosecutrix had been two hours in her house that morning, she *never mentioned a word of the matter* to her. The prosecutrix also swore that, on the night but one before the offence, she and her husband, and another man, a friend of theirs, slept in a hayloft; and it was proved by the

man who let them into the loft on the night in question, that the woman and *three* men slept there. Again, the husband swore that he never offered to make up the charge for a few shillings; whereas a respectable farmer was called for the defence, who swore that, on the day after the offence was said to have been committed, he had a conversation with the husband, who said he was willing to settle it for a few shillings; but, if they (the prisoners) would not "come up," he would look for compensation elsewhere.

Finally it was discovered that the prosecutrix was not married to Haythorpe as she had sworn, but that her name was Twite; and her antecedents, supplied by the Governor of the Home of Industry, at Gressinghall, in Norfolk, who had known her from thirteen years of age, proved her to be of the vilest character and habits, and wholly unworthy of belief. The wretched creature died from mental excitement whilst these enquiries were proceeding; and Folkes, respited on the eve of his execution, ultimately received a Free Pardon.

How many scores of persons may have been unjustly committed—how many more wrongfully executed under such a system as that with which Barry had to contend—can never be

known, save to the Omniscient One. Let me just glance at a few cases that have, from time to time, come to my knowledge.

On a visit, some years since, to Walsall, Mr. Oerton, then Mayor of that town, related the following:—

At Abergavenny, thirteen persons were charged with uttering a forged Bank of England note. A person, named Christian, sent down specially from the Bank, swore to the forgery. They were convicted, and ordered for execution. It happened that some one in the town submitted a note, which he knew to be genuine, for Christian's examination. The latter pronounced it also to be forged. This occurrence becoming known, the notes were sent up to London for scrutiny. *They were pronounced* GENUINE, just in time to save the lives of the persons condemned.

I give the two following incidents on the authority of Mr. Hitchins, coroner for the City of Lincoln:—

A man was convicted at Lincoln for cattle stealing. He was hanged. A publican, who watched the execution of the sentence from his own inn window, subsequently confessed himself to be the criminal, and declared the man who had suffered to be entirely innocent.

In the same city eight men were charged with highway robbery with violence. The prosecutor, although repeatedly cautioned by the judge, positively swore that one of the party, whom he identified, had gone back after the gang had left, and kicked him violently on the head. The judge marked his opinion of the case by leaving for execution the man thus selected, and transporting the rest. He died protesting his innocence of the special act of violence alleged against him; and his assertions were proved true by one of the others confessing, immediately after his arrival in Australia, that he and not his executed companion was the person who kicked the prosecutor.

Another narrative, communicated to me by Dr. Conquest, the well-known physician, is still more appalling. I give it, nearly in his own words, as I noted it down at the time :—

"When a medical student," he said, "I was one morning passing the Old Bailey, and saw hanging the bodies of two men and two women just executed. Their story was as follows :— The two male sufferers were countrymen who had come up to London to obtain work, and lodged at a coffee-house, which, unfortunately for them, was the resort of bad characters engaged in uttering forged bank-notes. It was at the

time when one-pound notes afforded great temptation and facilities for this crime. The two countrymen were ready dupes in the hands of these sharpers. Their simplicity and ignorance led them at once into the snare. They were induced—not knowing of the fraud—to tender some flash notes. The scoundrels who employed them gave information to the police, secured their conviction, and received the blood-money as the reward of their treachery. Of the females one was a poor woman, whose husband had deserted her. In great distress and want she had committed a theft, was arrested and sentenced to die. The other was a young servant. She had been but a short time in her situation, when her mistress gave her permission to go to Greenwich Fair. The foolish girl borrowed a brooch and some other jewellery from her mistress's drawer. She stayed out later than expected, and, still wearing the brooch, arrived at home after the family had retired to bed. Although she knocked repeatedly, she failed to rouse the household, and was at last ordered away by the watchman. She went at once to the house of a respectable relative, and, sitting down by the fire, cried bitterly over her fault. Meantime, finding she did not return at the proper hour, the family's

suspicions were aroused, and, a search being made, the jewellery was missed. The police were summoned, and, entering the house where she had taken shelter, found her still sitting weeping with the jewellery upon her. But her story availed nothing, and, like hundreds of others, her life was sacrificed at the shrine of the demon of slaughter.

I do not remember any circumstance in Barry's career that more thoroughly roused his indignation than the attempt of the Whig Government in 1832 to revive the barbarous custom of gibbeting criminals. It was effected by the insertion of a clause in the "Anatomy Bill." By that clause, the law which made dissection of the bodies of murderers a part of their peculiar punishment was abolished, and a provision substituted, by which "the bodies of all prisoners convicted of murder, should either be hung in chains, or buried under the gallows on which they had been executed, or within the precincts of the prison in which such prisoner had been confined, according to the discretion of the court before whom the prisoner might be tried."

Two experiments were made to test the public feeling with respect to this disgusting practice. At Leicester, a man named Cook had committed a savage murder; and a similar offence, with

very revolting features, was perpetrated by one Jobling, in Durham. Both were executed, and under the new law the bodies hung in chains. At Leicester, however, the nuisance created occasioned an immediate reversal of the order; and the body was taken down and buried, but not before the greatest scandal was occasioned by the unseemly proceedings of the crowds who flocked to the horrid exhibition as to a holiday spectacle. A sort of fair was held, and card-playing, with other levities, took place under the gibbet, greatly to the disturbance of the public peace, and the annoyance of all decent people. At Jarrow Stake, where Jobling's corpse was exposed, similar scenes prevailed, mingled, however, with compassion for the wretched culprit's family, for whom a subscription was raised from visitors on the spot.

At length the body disappeared, some of the old companions of the malefactor defying the law by removing it at night and burying it in the sand. This settled the matter for ever, and the experiment was not again repeated. Two years later, as before mentioned, Mr. Ewart's bill repealed the law, leaving instead the simple clause which ordains that the bodies of executed murderers should be buried in the prison where they are confined previous to execution. If I

were writing a history of criminal law reform, or could attempt to do justice to his labours in the space at my disposal, I would endeavour to erect a fitting memorial to the quiet and unostentatious labours of Mr. Ewart in the cause of humane legislation. I have already briefly recapitulated the measures for which the country was indebted to that gentleman during the years 1832 to 1836, when, at length, he succeeded in carrying the measure that, for the first time, gave persons charged with felony the privilege of a speech by counsel in their defence. I need not, after the lapse of twenty-nine years, insult common sense by justifying this simple act of justice. Savage as was the law previously, its sad consequences might have been infinitely lessened had the right been earlier conceded. Up to the passing of Ewart's Act, counsel might cross-examine witnesses, or raise legal points for the consideration of the court; but if a word were said by way of comment upon the evidence it must be uttered by the criminal himself. Even when passed at last the measure was partially mutilated in the Lords; and at this moment an amending bill, brought in by the Hon. G. Denman, M.P., is undergoing discussion in Parliament, which will extend the privileges secured by the law of 1836.

Mr. Barrett Lennard and Mr. Aglionby were always regarded with great respect by Barry, for the useful amendments of the law which passed at their instance. An illustration of the state of things before housebreaking ceased to be capital is afforded by the following extraordinary case:

At the Old Bailey Sessions, held May 16, 1833, before Mr. Justice Bosanquet, Nicholas White (aged nine years!) was indicted for feloniously breaking and entering into the dwelling-house of Thomas Bachelor, on the 19th April, at St. Matthew, Bethnal Green, and stealing therein fifteen pieces of paint, value twopence, his property.

From the evidence of the principal witness, who was also nine years old and a looker-on, it appeared that the little urchin, prisoner at the bar, upon the capital charge of "breaking and entering," had effected this felonious act (!) while peeping in at the shop-window, where, taking a fancy to some children's painting colours, he "poked" a stick through a patched-up pane of glass—and, thus perforating it, incurred the legal guilt of "breaking into the dwelling!"—he then raked out the pieces of paint, value twopence. Some little creatures who stood by to witness the exploit, not getting their promised share of half of the "colours,"

went into the shop and gave the alarm. The young "housebreaker" was captured, brought up to Worship-street Office, and committed to take his trial. He was found guilty and sentenced to death, though the sentence was not executed.

Like Ewart's Prisoners' Counsel Bill, Aglionby's Act seems now to be one of those measures that should have been passed a hundred years before in a country where justice was administered with the commonest fairness to the accused. But it received the royal assent only just in time to save the tribunals of England from the guilt of a judicial murder. At the very first trial for murder, which took place after the act became law, the time allowed between sentence and execution admitted of the innocence of a man condemned to die being proved. This was Edmund Galley, convicted through mistaken identity at Exeter, July 28, 1836. An investigation, conducted with great judgment and energy by Mr. Faulkner, a London solicitor, resulted in the most satisfactory proof that Galley was at a place far distant at the time the crime was committed, and his life was saved. Barry had good cause to know, from much painful experience, how terribly the limitation of time to forty-eight hours had told against

persons accused of murder. In 1835, his humane feelings had been grievously wounded by the precipitate execution of Edward Poole Chalker, at the Sussex Assizes, for the alleged crime of shooting a gamekeeper. Chalker was undoubtedly a poacher,—he had been at a spot not far distant from the scene of the affray, on the night of the occurrence, and a gun recently discharged was found in his possession when he was arrested. The case was strengthened against him by his prevarication as to his whereabouts on the night in question, although this was attributable to his desire to avoid conviction for the minor offence of poaching. In vain he protested his innocence ; in vain Barry besought for time for investigation ; the blood-fiend brooked no delay, and on the Monday following his conviction on the Friday (Sunday being regarded as a *dies non*) he was hanged. Seven years afterwards his innocence was proved by the real culprit, then a soldier in India, confessing to the crime.

Sad to tell, there was evidence in the hands of the prosecution, at the time of the trial (but that evidence was suppressed), which should have averted this unrighteous deed. On the spot where the affray took place was found a splinter of the stock of a gun which had been used in

the attack; but Chalker's gun-stock was without fracture. Let those who withheld the knowledge of this circumstance answer, if they can, for the blood of an innocent man.

The passing of Lord John Russell's bills in 1837 practically limited the penalty of death to murder and attempts to murder, although some seven other crimes were still capital by law, and continued to be so till the passing of the Criminal Law Consolidation Acts of 1861; after 1841, it came to be an established rule, adhered to except in two cases, that murder only should be punished with death.

Mr. Barry took an active share, though in enfeebled health, in the operations of the Society for Promoting the Abolition of Capital Punishment, inaugurated by Mr. Gilpin in 1846, and never denied himself, however severe his physical sufferings, to those who sought his counsel in aid of the cause he had so much at heart.

Eight years before his decease he finally quitted the Plough-court business, in which he had, for some time previously, ceased to take an active part. The publication of "Vacation Thoughts on Capital Punishment," by the late Mr. Charles Phillips, suggested to Mr. Barry a fresh opportunity of advancing the great object of his life. In conjunction with his old and

intimate friend, Mr. Peter Bedford, to whose character and labours I have already referred, he raised a fund which, in addition to their own contributions, enabled these two gentlemen, both far advanced in years, to circulate several thousand copies of Phillips's book amongst persons of influence throughout the country, Mr. Barry undertaking the revision of several successive editions; and within a very few days of his death his active mind was still at work upon some matters connected with his favourite topic.

Except when duty called him into action, Mr. Barry was a man of most retiring character. He seemed proud to have acted independently of others' aid, though only too ready to acknowledge assistance when it was offered. Self-reliant in his enterprises, he reminded those who knew him of the great philanthropist, John Howard—was as modest in claiming credit for his good deeds, and as bold and fearless in exposing a wrong. May this passing glance at his life and labours inspire others to imitate his benevolent zeal, and earn, like him, a title to reverent and loving memory.

He died March 31, 1864.

CHAPTER IV.

John Sydney Taylor—Early Life—On the Press—At the Bar—A Man nearly Hanged by Mistake—A Female Jury in Error—A Woman Saved from Death—Humane Intercession—Defence of Oxford—Death.

WHILST engaged in the forgery-law agitation, Mr. Barry first became acquainted with Mr. John Sydney Taylor, whose noble exertions to sustain the efforts of his friend deserve special notice in these pages. Like many of the ablest London journalists, Taylor was an Irishman. He was one of a large family, and, owing to reverses which limited his father's means, was dependent first on his elder brother, and subsequently his own abilities, for his advancement in life. As a Dublin student, he attained distinction both for his oratorical and poetic talents. His rise at the English bar was due to no other cause than his own intellectual energy, which also procured for him a lucrative position on the

London press. He was connected with the *Morning Chronicle* in Perry's days, and married a niece of that gentleman ; but at the time of the forgery-law agitation was acting chief editor of the *Morning Herald*, a paper having at that time some real influence on public affairs, and that could, without feeling ashamed, devote itself to the advocacy of important social reforms. No bolder articles ever flowed from the pen of a journalist than those which Taylor indited when the interests of humanity or the abuses of power invoked his intercession. Perfectly disinterested, he could, if needful, close the door to professional advancement ; but he could not crush the generous emotions of his own chivalric nature. Gifted with an acute penetration, great judgment, a polished style, and the most eloquent diction, all his faculties were controlled by the devout spirit of a Christian, all his aims tended to the advancement of religion and truth. His faith and aim were finely expressed in the words :—"On this rock we stand ; on the adamantine basis of Christian principle we would build the whole fabric of legislation which regards the public morals. Where can the legislature of a Christian people expect to find a firmer foundation ? When they have built elsewhere they have built on the sand."

No wonder that Barry and Taylor were both drawn together, no less by their mutual interest in passing events than by that holier bond of communion which unites men whose faith is in a higher principle than any human creed. Their acquaintance ripened into intimacy; and to say they *loved* one another is no exaggeration.

Whenever Barry desired to call the special attention of the King, or his advisers, to any case in which he was interested, Taylor was ready to give it the publicity required; and again and again did a simple reference in the *Herald* effect the object they had in view. Let one instance illustrate this. It was the privilege of persons convicted at the Old Bailey Sessions, where the Recorder of London was the chief judge, that all capital sentences passed on them should be submitted to the King in Council. The accession of a female sovereign of course rendered this practice inexpedient; and, with that event, and the establishment of the Central Criminal Court (where one of the fifteen judges always presides in capital trials), the practice ceased. Probably the reference was often little more than nominal. Hence, possibly, the strange and nearly fatal mistake I am about to relate.

The usual course of proceedings was as follows:—The Recorder waited on the King in Council

with the report of the convicts under sentence of death. The Recorder took, or was supposed to take, the orders of the King in Council with regard to the convicts, whose sentences of death, previously pronounced at the Old Bailey, were to be commuted or confirmed. With regard to the latter, he wrote out his warrant in his own hand (no printed formula being used) and sealed it with his own black seal. This instrument he did not dispatch to the Sheriffs, whose duty it was to see it carried into effect; he merely deposited it with the Governor of Newgate. The latter, on receiving the instrument of death, wrote a note to each of the sheriffs, who thereupon came to Newgate, and satisfied themselves of the authority on which they were to act, by inspecting the warrant lodged there. The Sheriffs, having inspected the warrant, and being satisfied that it was under the hand and seal of the Recorder, attended on the day specified in the document, and demanded of the Keeper of Newgate the body of the offender.

A man named Job Cox, a letter-carrier, had been sentenced to death, in 1833, for stealing a letter containing £5. The warrant was lodged by the Recorder in usual course, and the newspapers received official copies. The announcement that an execution was to take place for this

offence occasioned intense astonishment, both to the public and the Sheriffs. Sydney Taylor, in the *Herald*, called special attention to the case. The aid of Lord Chief Justice Denman was invoked, and with what result? *Why, it was discovered that the Recorder had made a mistake, and only timely action averted the fatal consequences.* The stern denunciations of this oversight, which appeared in the *Herald*, occasioned great indignation, and compelled the blundering city judge to resign his office. He did not long survive his discomfiture.

Nowhere, however, was Sydney Taylor's generous enthusiasm more frequently called forth than on circuit; and in those days of Draconic legislation there was need enough for his noble intervention between the law and its victims.

He belonged to the Norfolk Circuit, and one or two cases will show how the spirit of the philanthropist quickened the intellectual faculties of the advocate.

At Norwich Spring Assizes, in 1833, a woman named Mary Wright was indicted for poisoning her husband and father. She was probably guilty of these acts, although the evidence against her was not of the strongest character. Sydney Taylor was her counsel, and

cross-examined with the view of proving insanity. Mr. Justice Vaughan, who presided, evidently leaned to this view of the case in his summing up; but the verdict nevertheless was "guilty."

The learned judge put on the black cap, and in an impressive manner, addressing the prisoner, pronounced the awful sentence of her execution on Monday, 25th March, or (omitting Sunday) within forty-eight hours' after conviction.

Mr. Sydney Taylor then moved to stay the execution, on the ground of the prisoner's pregnancy, and the Court ordered a jury of matrons to be impannelled to try that plea.

Twelve married women were then impannelled, *de circumstantibus*, and, being called into the jury-box, were sworn to try whether, in the language of the law, "the prisoner was with child of a quick child or not." A bailiff being sworn to attend upon the female jury, they retired from the jury-box, along with the prisoner, into a private room, to be "without meat, drink, or fire, except that of a candle, until they agreed upon their verdict." After the lapse of more than an hour, the jury of matrons returned into court, and gave as their verdict that they "Did *not* find the prisoner pregnant of a *quick* child."

As the forewoman of the jury delivered the verdict, in the words of the ancient formula, the sharp ear of the humane advocate detected an emphasis on the word "quick." This was enough for him. He rose and reminded the court that the idea on which the old law was founded, was an ancient error, which the progress of science in modern times had exploded, and the best medical jurists repudiated. He thought from the manner in which the verdict of the jury of matrons was given, that they did not intend to negative the pregnancy, but only to deny that the child had "quickened," according to the usual indications. "There was high authority in modern science," he said, "for believing that the living principle existed anterior to such outward indications."

To this Mr. Baron Bolland replied, "I have done all that the law empowers me to do: I don't see what more I can do."

"The law," said Taylor, "gives your lordship a discretionary power to stay the execution, even in a case of murder, if there should be a danger of any fatal mistake. I am sure I need not press upon your humane mind the propriety of acting upon that discretion, if there should be the most remote danger of confounding innocent life in the punishment of guilt. Surely

it is more safe to act upon the opinions of medical men, than upon those of unlearned women."

The judge rejoined, "At present I can do nothing more; but I will take the subject into consideration."

The next morning, upon the sitting of the court, the learned judge, addressing Mr. Sydney Taylor, informed him that he had taken into consideration the suggestion which he had made in relation to the finding of the jury of matrons, in the case of the prisoner Mary Wright—that in the course of the previous evening he had communicated upon the subject with three eminent medical practitioners in Norwich—the result of which communication was, that he had determined to stay the execution.

Mr. Taylor asked whether his lordship meant to stay the execution to any precise time, or generally; to which Mr. Baron Bolland replied, "generally."

A short time previously to the next assizes, an event happened which fully established the fallacy of the old women's verdict, and confirmed the propriety of the learned baron's humane discretion; for Mary Wright was delivered of a child, thus demonstrating that, but for her counsel's humane intervention,

one of the most horrible spectacles possible to conceive might have taken place before the gaze of the people of Norwich.

In the meantime, Mr. Joseph John Gurney, of Norwich, communicated with Mr. Sydney Taylor on the subject, and offered to pay all the expenses of an inquiry into the question of sanity; this gentleman, also, put himself in communication with the Home Secretary (Lord Melbourne) on the subject. The solicitor engaged lost no time in making the necessary inquiries, and, some time before the next assizes, was enabled to furnish the Home Office with abundant proof of the insanity of the poor creature, down to the day of the lamentable occurrence for which her life had been forfeited to the law: he also sent copies of these affidavits to the prisoner's counsel, who addressed a written argument upon the contents of them to the Home Secretary.

The decision of Government was favourable to the prisoner—she was ordered to be reprieved, on condition of being transported for life. The unfortunate woman, however, died in prison, previously to her intended removal for transportation.

Another instance of Sydney Taylor's humane intervention at a most critical moment, occurred

at Bedford Spring Assizes in 1835. Two men, named Taylor and Penwright, were charged with making a deadly attack on a gamekeeper, who, with others, had attempted to arrest them whilst engaged in night poaching. The serious nature of the offence was clearly brought out by the evidence of the prosecutor, John Whittamore. The unfortunate man appeared in the witness-box with his head tied up in a handkerchief, and looking deadly pale. He deposed that he went, on the night in question, in obedience to orders, along with Thomas Morris, to watch Oxley Wood. They heard a gun discharged in that wood, after midnight, on the 16th of January, and in about half-an-hour after, heard another gun. The report of the last gun was within about 150 yards of where they were. It was a very moonlight night. He and Morris proceeded immediately in the direction of the report. On approaching the spot, they saw two men standing in the ride in the wood. The prisoner Taylor was one of them. They were stooping down when he first saw them; he was within about thirty-seven yards of them when he first saw them; that was but a minute or two after the last gun was fired. When he came near, Taylor struck him on the head with some weapon which he had in his hand. Neither of

them said anything to each other. Whether the blow knocked him down or not he could not say; he did not feel a second blow, he was so stunned by the first; he could not say what happened after that. When he came to his senses next day, his head was very bad, and he suffered a great deal of pain: he had several wounds on his head. (Here the witness uncovered his head, which still bore evident marks of the injuries which he had received.) He denied that he had offered any violence to the man who struck him, but admitted he was running towards him with the intention of taking him into custody.

Mr. Layman, a surgeon, who attended Whittamore, said that he found him insensible in bed on the morning of the 17th of January. On examining the head, he found his skull was laid bare in five places; three of them were about a finger's length. There was a fracture at the back part of the head, through which a small portion of the brain had exuded. He had some bruises on the side. He was unable to answer questions. The wounds on his head were mostly given from some one striking in front. Some of the blows had glanced. The skull in some places was "like polished ivory."

Other evidence was given, and the jury, without hesitation, returned a verdict of guilty.

Clemency in cases of this nature was, I need hardly say, but rarely exhibited. Mr. Justice Vaughan, however, did not at once pass sentence, but ordered the men to be taken down whilst other trials proceeded. Meantime, a clergyman who knew Taylor, and some other persons, volunteered evidence as to character, in hopes of mitigating the sentence. The prosecutor, greatly to his honour, also craved permission to recommend them to mercy.

Their counsel, on the removal of the prisoners, had left the court, and the judge, evidently feeling acutely the solemn duty devolving upon him, was about to pass sentence of death; but Sydney Taylor, who, though not retained in the case, had watched the proceedings—all his keenest faculties excited by the dismal spectacle before him—interposed between the law and its doom. With a manner always courteous and dignified, but a bearing that showed the resolute spirit within, he was not one to be frowned down even by a judge less inclined to be merciful than Mr. Justice Vaughan. Addressing the court, he said, that in the absence of his learned friend, who was ignorant of what had transpired since the verdict, or he was sure he would have felt it his duty to make some application to the court, he (Mr. T.) now took the

liberty, which he trusted his lordship would excuse, to make a suggestion on behalf of the prisoners, in answer to the formal question which preceded judgment. The jury had heard a most respectable and worthy clergyman give a character of the prisoner Taylor which extended over two years, during which he resided under his immediate observation. Though guilty of a previous offence, his good conduct, during the interval between his coming out of prison and his recent offence, was such as raised a fair presumption that he had been penitent for that offence, and had resolved to amend his life. For two years he continued to walk strictly in the path of industry and peace; but unfortunately some temptation had led him again into crime, and the law now claimed his life. He hoped both his lordship and the jury, notwithstanding the great violence which he had committed—but which was certainly as sudden and unpremeditated as it was criminal—would think, after what they had heard, that he was still not incapable of repentance and amendment. He was the principal felon, though his comrade was equally guilty in the eye of the law. He trusted the learned judge, whose characteristic benignity and impartiality he need not expatiate upon, would not think the moral example of

punishment for a crime of great violence the less effectual because of complying with the prayer of the prosecutor, whose application for mercy to the prisoners did him so much credit. It would be but to act upon that maxim which formed an essential part of the king's coronation oath, that justice should be administered in mercy. In order to make that prayer the more effectual, and to prepossess the mind of the learned judge—who had a most painful duty to perform—in favour of a mitigation of the awful sentence of the law, he suggested to the jury to add to their verdict, in consequence of what had transpired since they delivered it, that which they had a right, by usage, to add—a recommendation to mercy.

The jury consulted together for a moment or two, and the foreman then said, "My lord, we all join in recommending the prisoners to mercy."

The judge, too, was moved by the eloquent earnestness of the unpaid advocate; he admitted the force of the appeal, and, after stating that, but for the recommendation of the jury, he would have felt it his duty to leave the prisoners for execution, he passed upon them a sentence of transportation for life.

Thus wrestling with justice for his clients did

Sydney Taylor obtain mercy. But death too early cut short his noble career. Soon after conducting the defence of Oxford, and securing a result which at once insured the safety of the sovereign, and accorded with the desire of all who were not insensible to the feelings of humanity, Mr. Taylor's health became seriously affected, and he died on the 10th December, 1841, at the age of forty-five.

CHAPTER V.

William Ross—Arrested for Wife-poisoning—Doubtful Evidence—Trial and Condemnation—Post-judicial Investigation—Affecting Scene—Dies Declaring His Innocence.

I HAVE already mentioned that the Society for the Abolition of Capital Punishment was inaugurated in 1846; and I shall have occasion, as I proceed, to allude to some of the events which signalised its operations prior to my own connection with it in 1850.

Early in August of that year, I one day received a visit from Mr. Barry. Some one had sent him a copy of the *York Herald*, containing a report of the trial of a young man named Ross, charged with poisoning his wife, which had just occurred in that city. Barry, after reading the report, came to the conclusion that the verdict of guilty was not borne out by the evidence, or at all events that the case was one demanding investigation. "If HE were still young," he

said, in his quiet way, "he would go down to York and see what could be done." I took the friendly hint, and, in a few hours, was on the way to the scene of action. The following is a brief sketch of the evidence adduced upon the trial, and the counter-evidence obtained by two visits to the district in which Ross and his wife had resided :—

In the spring of 1849, William Ross, then only eighteen years of age, married, at Ashton-under-Lyne, a woman named Mary Bottomley. This youth was of decent family, and, with one exception, had sustained a good character. His wife's relations, however, were persons of very bad reputation. The mother was a woman of most abandoned habits, the father given to drink ; and more than once several members of the family had been convicted and punished for felony. So depraved, indeed, were these people found to be, that Ross's family refused to associate with them, and even declined all intimacy with Ross himself on their account. The occasion on which Ross had been "in trouble," as the phrase goes, was when a riot occurred in Ashton-under-Lyne, in the year 1848, and a policeman named Bright was shot. It need not, however, have told much to the discredit of a boy of seventeen, that, in a time of political excite-

ment, he had mingled with hundreds of unruly men and lads, all bent, probably, more on noise than mischief. There is generally a good deal of toleration felt for such offences against public order when the danger they create is past. Ross had been marked by the police as having been present on the occasion above referred to. Finding he was "wanted," he took shelter in the Bottomleys' house, and thus commenced his acquaintance with his future wife.

After a while, Ross and his wife went to live with the Bottomleys at Roughtown, a village about three miles from Ashton, where he and his wife, and several members of his wife's family, procured employment at a cotton-mill. The Bottomley family at this time consisted of the father and mother, two daughters and a son; and a married daughter, named Martha Buckley, resided within a few hundred yards of their house. The household lived very much in common; their meals seem to have been generally taken together, and were prepared in the same vessels. From all that came out in evidence, and from our subsequent enquiries, it appeared that Ross and his wife lived as happily together as is usual with persons of their class. There was one occasion, it is true, when in a fit of anger, produced by the misconduct of his

wife, Ross was heard to say to her, "You would be worth more dead than alive;" but his whole conduct to her, and especially in times of illness, was admitted to have been of the most affectionate kind. The father, the mother, and indeed every witness who testified on the subject, unhesitatingly acknowledged the fact.

In such a wretched household, quarrels were, of course, frequent; and it mostly happened that Ross and his wife were on one side, and the whole Bottomley family on the other. The married daughter above alluded to, Martha Buckley, was particularly bitter against Ross, and is shown to have often spoken of him in contemptuous and threatening terms. Ill-will, to a distressing extent, thus sprung up between the parties; and this angry feeling arose to a climax when, on one morning in May, 1850, William Ross gave information to the police of a robbery which his mother-in-law, and one of her sons, had perpetrated upon a neighbour. At this point of the story the tragedy begins.

It was on Monday, the 27th of May, that Betty Bottomley and John Bottomley were taken into custody on the charge above alluded to, and which, it is important to repeat, William Ross was to prove by his evidence. It seems, indeed it is distinctly shown, that Martha

Buckley, the Bottomleys' married daughter, was very much incensed to find that Ross should have accused her relations of the offence which they had committed; and she was heard to say "*that she would do that to Bill*" (meaning Ross) "*which should prevent his appearing against them.*" Too faithfully was the dreadful promise kept!

At the time of the Bottomleys' arrest, Mary Ross was slightly out of health. On the preceding Saturday, Ross had taken her to Ashton, and had there consulted an apothecary about her health, purchased medicine for her, and said that "he did not mind what the expense was, so as he could have her well." Well, on this fatal Monday, and shortly after the Bottomleys were in the hands of the police, Martha Buckley went to see Mary Ross. Be it remarked, that she had not been to her sister's house for many weeks before, not having been on good terms with her; and that on being asked the question, she acknowledged that "she had never attended on her sister before in her life." On Tuesday afternoon, Mary Ross grew worse, and Martha Buckley had been to see her again. On the Wednesday, Martha Buckley called many times at her sister's house, and took several opportunities to prepare the

victuals which the invalid was to eat. She made her some tea, peeled some potatoes for her, and was in the house alone with her for several hours. We find that she was constantly at the bedside of Mary Ross, and we also find that once, during the Wednesday evening, she was heard by more than one witness to say, "she wished Mary was dead, for she knew she would die;" for which expression, and for the manner of it, she was at the time seriously rebuked by those who heard it. During this time Ross also was in constant attendance on his wife, and was specially careful that she should take her medicine as directed. On the Thursday morning, Mary Ross became much worse, and died after some hours of severe suffering. It should be mentioned that, when his wife grew decidedly worse, Ross went again for medical assistance, fetched a doctor in their immediate neighbourhood, described to him accurately the symptoms of her illness (although they showed at once that she was suffering from poison), and exhibited the utmost anxiety for her recovery. It should also be stated that Ross's demeanour after the death of his wife was of a character to prove how deeply he felt his loss. He is shown by several witnesses to have exhibited great grief; and, from his entire

conduct, there is no reason to suppose that this sorrow was assumed. Bitter tears are not at a hypocrite's command; and poor Ross shed these in sad abundance.

On the night of Mary Ross's death, the young man was taken into custody on suspicion of having poisoned her. What gave rise to the suspicion never transpired; but it is more than probable that it grew out of malicious reports set afoot by the relatives of the deceased. Be that as it may, the first consequence of the incarceration of Ross was the discharge of the Bottomleys from prison, there being no evidence to go before the grand jury; and thus the expressed object of Martha Buckley was accomplished.

Ross stoutly asserted his innocence on his apprehension, and expressed his perfect readiness to answer any charge against him. So incomplete, indeed, was the evidence in support of the accusation, that Martha Buckley was arrested also; although this person found so much favour in the eyes of her gaoler (the local police officer), that she was permitted to act as domestic servant at the prison, while Ross was immured as closely and gloomily as if he had been already proved guilty of the murder.

When questioned on the subject of his wife's

death, Ross made the following statement:—He said that while his wife lay ill on the Thursday morning, Martha Buckley administered *a white powder* to her in some treacle, mistaking it for cream of tartar; and that when she found Mary Ross dying, she was frightened, and gave him the rest of the powder to put out of the way, offering him at the same time a shilling if he would say nothing about it. This story doubtless seems a strange one; but Ross, be it borne in mind, was a young man of extremely simple character, which brings this statement quite within the bounds of probability; and certain it is that when he was arrested he was actually parleying with Martha Buckley, and had a shilling in his hand, which she had been pressing upon him, and which he had repeatedly refused to accept. So incredible did the tale appear to the police, however, that after the coroner's inquest (at which an open verdict was returned), Martha Buckley was set at liberty, and William Ross kept in gaol to await a trial. So matters rested till the assizes.

The day of trial came, and there was great excitement upon the subject. The only witnesses against Ross, who testified materially against him, were the Bottomleys—those infamous people, of whom it was said by a magis-

trate who knew them well, that he would not believe them on their oath. The following facts, however, were deposed:—That Ross had purchased arsenic at Ashton some time before the death of his wife; that his wife had clearly died of the particular poison in question; that he had made use of the words to his wife, "Thou art worth more dead than alive;" and that he became entitled to £4 club-money on her decease. It was further stated in evidence, that a quantity of arsenic had been found in the prisoner's fob some days after his apprehension; that some arsenic had also been discovered in a mattress belonging to him; and that when he went for a doctor, he only pretended to go, and returned saying that Mr. Schofield was not at home.

The prisoner was defended by Mr. Serjeant Wilkins, who addressed the jury in a speech of singular power and eloquence, his line of argument indicating Martha Buckley as the culprit who, instead of Ross, should stand at the bar. At the close of the learned serjeant's address, Mr. Justice Cresswell adjourned the court. It was thought by many that had he at once summed up, and the jury retired with all the points urged by Ross's counsel still fresh in their memories, they would probably have given

him the benefit of the doubts raised by that vigorous appeal. But I was told that the judge was to dine that evening with a high dignitary of the neighbourhood, and so deferred the further proceedings till next morning. He summed up unfavourably to the prisoner, and the jury, with little hesitation, found him guilty. As the fatal word fell from the lips of the foreman, the prisoner, in a very slow and emphatic manner, exclaimed, "I am not guilty, my lord! I am not guilty, my lord!

The judge passed sentence, and in doing so, uttered the unwarrantably strong declaration: "It is of no use for you to protest that you are not guilty; for *I am as convinced that your hand administered the fatal dose as if I had seen it with these eyes.*"

Had not this something to do with the persistent refusal of the Home Office to admit, by interfering with the sentence, that Sir Cresswell Cresswell might have been in error?

After sentence was passed, the condemned man again ejaculated, with strong emphasis, "Not guilty, my lord! I am not guilty of the crime!" Though evidently much affected, he received the awful doom with marvellous firmness. On being removed from the bar to the dock beneath, he gazed anxiously up to the gallery over the

jury-box, as if in search of some one amongst the crowd of horror-struck countenances, all turned towards the unhappy culprit.

The evidence subsequently collected established beyond question the following important facts:— That although Ross made use of the unhappy expression above alluded to, it was in a momentary fit of anger, caused by the intemperance of his wife, and at least two months before her death; that he had been habitually kind to his wife, both before and since this little quarrel, and had been discussing plans for taking her, when she grew well, with her sister, to America; that when he bought the arsenic, *he did so at Martha Buckley's request*, and said so at the time to the druggist of whom he purchased it; that he affected no concealment on the occasion, but took a witness with him, and readily admitted the fact of the purchase when apprehended; that Martha Buckley had been heard to say, by more than one witness, that when Bill (the prisoner) went to Ashton again, she should get him to buy some mark'ry (arsenic) for her, and that he was seen to give her a small packet on his return from Ashton; that although the servant of Mr. Schofield asserted in evidence that Ross did not go, as he said he did, to her master on the day described, she had stated that he *had*

done so to one of the witnesses; that the bed in which it had been insinuated that Ross had concealed some of the arsenic had been *last* slept in by two of the Bottomleys, and subsequently purchased by a man named Dyer, whose character was most infamous; that although Ross was certainly entitled to £4 club-money on the death of his wife, he was making from 10*s*. to 12*s*. a-week by her labour, and he therefore could have had no pecuniary motive for destroying her; that the father was commissioned to see after this club-money, and did so, and got it, and spent it in drink; that William Bottomley and his wife had been heard to say repeatedly after the conviction, that Will (the prisoner) was certainly innocent, but that "revenge was sweet," and that "it was hard to go against one's own," alluding expressly to Martha Buckley; that whether Ross called on Mr. Schofield or not, he certainly went to Dr. Halkyard, who came to see his wife, and attended her to the last —a fact which completely does away with the supposition, that the accused had an objection to fetching a doctor—a point which told much against him on his trial; that Ross's poverty (which was so extreme that his counsel's fee was subscribed by the villagers, his solicitor acting gratuitously) alone prevented him from bringing

forward witnesses for the defence; that his wife, when dying, called him to her bedside, and after expressing perfect satisfaction with *him*, said, "William, for what my sister Martha has given and done to me, she will wither away like a leaf on a tree;" that just before the murder, *Martha Buckley applied for arsenic to two different druggists in Mossley*, who refused to let her have it, and that she subsequently told a witness she had got some nevertheless—which facts, though clearly proved, Martha Buckley altogether denied; that immediately after Mary Ross's death the impression of the whole neighbourhood was, that Martha Buckley had caused it; that since the trial, several of the chief witnesses against Ross had attempted various crimes, and even theatened lives; and that no arsenic was found in the remains of the medicine or food from which Ross had supplied his wife, or in any of the uncleaned vessels from which he had fed her.

There is one other circumstance connected with this case, which requires separate and particular notice. On the Tuesday, when Mary Ross was but slightly ill, Martha Buckley went to the mill where the invalid worked, and fetched away her reed-hook and nippers, the implements which she used in her labour. Now, there was a sick-club established among the operatives at

this mill, and so long as the reed-hook and nippers were left there, the owner was concluded to be at work, and was entitled to pecuniary help. The fetching away of these implements was, therefore, a very significant act. It intimated, at least, that Mary Ross was not going to work at the mill any more; and even if it cannot be interpreted into a proof of a foregone determination to murder the poor creature, it at all events was a piece of wanton cruelty, having for its object the prevention of that pecuniary assistance to which, as a member of the club, she was entitled.

Sir George Grey, then, as now, Home Secretary, could not refuse to entertain an appeal for a reconsideration of the case when these facts were laid before him.

He determined upon instituting an inquiry; but to whom was this important investigation confided? Why, to the very magistrates who had committed Ross for trial, and whose judicial acumen was directly challenged by the defence set up; the men, too, who had that old grudge against the prisoner for his alleged complicity in the affair at Ashton. Let us see how these worthies proceeded to sift the statements put forward on Ross's behalf.

In the first place, the investigation was kept

entirely secret. The prisoner's solicitor only heard of it by chance, and was not allowed to be present during the inquiry, although the police, upon whose accusation alone Ross was arraigned, were permitted to be in attendance. The conduct of the officials was shameful in the highest degree. Grisdell, the informing constable, refused even to deliver a message to the magistrates from the prisoner's solicitor; and threatened him that "when the case was over they would do all they could to damage him in public opinion." Radcliffe, the magistrate's clerk, would not so much as see that gentleman. The magistrates themselves did all in their power to depress every person connected with the defence. Three or four times did the solicitor (Mr. Darnton) apply formally to be present; and every time his application was refused.

Finding that he could not be personally present on the prisoner's behalf, Mr. Darnton wrote to the magistrates to request that certain persons whom he named should be examined, whose testimony he believed would tend to the prisoner's exculpation. Six of these witnesses the magistrates refused to hear, although their testimony was of extreme importance—alleging that they were not named in their instructions

from the Home Secretary. Thus the accused was not only unrepresented at this his second trial, but the very evidence which had led to the re-investigation was not allowed to be stated.

Nevertheless, during the inquiry, it was clearly established that Martha Buckley had directed Ross to buy the poison; that she had attended upon the deceased during her illness; that she had expressed bitter feelings towards her throughout that period; and that there was not a particle of evidence to show that Ross had given his wife poison in anything that he had administered to her. Beyond all this, there was not the slightest proof of any motive on his part for destroying her—a link which is usually considered absolutely necessary to be furnished in all cases of murder where there is no actual witness of the deed—nor any reason for supposing that he entertained, or had entertained, the least ill-feeling against her.

The evidence thus collected was, in due course, forwarded to Sir George Grey; and that the right honourable baronet entertained doubts upon the matter, is proved by his returning a portion of some further testimony to a magistrate in York, with an inquiry as to its validity. The answer returned was to the effect that the witnesses in question were to be fully relied upon, and that the gentlemen referred to were them-

selves firmly convinced of Ross's innocence. Notwithstanding this reply, however, which must clearly have left Sir George Grey's doubts still unsolved, one Friday morning a letter was received from the Home Office directing the execution of the sentence; and on the next day at noon the unfortunate youth was hanged by the neck till he was dead, he protesting his innocence till the last moment, and the whole city of York believing him.

From the first to the last, he had constantly asserted his perfect guiltlessness of the crime; and every fresh inquiry tended to confirm the statement which he originally made, and from which he never varied. Some of the circumstances connected with his fate were inexpressibly affecting. At an interview with his brother, he threw his arms round his neck, and, sobbing, exclaimed, "Well, thank God, if I die, I die innocent;" and once, when purposely left alone in his cell, after he had been finally told that he was to die, he fell into an agony of prayer, and, in the hearing of the governor of the gaol, who employed this means to test his innocence, called upon his Maker to bear witness that he was utterly free from the crime for which he was unjustly doomed to suffer. A fact like this is perfectly inconsistent with the supposition of his guilt, and it confirms the belief that Ross was

no more the perpetrator of the deed of murder than the judge who tried him.

This sad issue can only be ascribed to the judge's vanity, and a weak-minded subjection to his influence on the part of the responsible minister of the crown.

The execution over, it became necessary to guard against the appearance of any incorrect reports of the last words of the man we had vainly endeavoured to rescue from his doom. It was Barry, I think, who suggested that an account, from the lips of the Chaplain (Rev. T. Sutton), should at once be obtained, and supplied to the editors of the daily papers on Sunday evening, as a check upon any such attempts as we had some reason to fear might be made, for the purpose of conveying the impression that Ross had admitted his guilt.

A hurried journey to York by the night train, an interview with the chaplain, in his bedroom, and an immediate return to town, effected our object. On the Monday morning, every account which appeared contained the admission that Ross had declared his innocence to the last. A rumour was, however, circulated that Ross had confessed the crime to his counsel before the trial; but this Mr. Serjeant Wilkins promptly denied.

CHAPTER VI.

The Law Assailed—Child-murder by Women—Mary Rogers—Sarah Ann Hill—Singular Statement—Baron Platt's Theology—His Determination—Vain Appeals for Mercy—Scene in the Prison Cell—Timely Action—A Judge's Intercession—Narrow Escape—The Jury—Louisa Walborn—Lord Palmerston at the Home Office—James Barbour—A Persistent Intercessor—Abel Burrows—Mr. Bright, M.P.—Too Old to be Hanged.

TAUGHT by the experience and success of my noble old friend, Barry, I always considered that the most efficacious method of undermining the existing law was to attack it in practical operation, by exposing, from time to time, the absurdities, inconsistencies, and injustice, to which it gave rise, as illustrated by the too frequently recurring trials for capital offences.

This line of action not only rendered the execution of the law a source of embarrassment to those who were chiefly responsible for its reten-

tion, but supplied our Society and its representatives continually with fresh illustrations of the mischievous effects of the system they strove to abolish. I shall, in the course of the narrative, roughly classify the cases which principally claimed our attention.

The execution of women had been for a long period a source of great difficulty to the Home Office; and this was more especially the case when convictions took place for infanticide. Many causes will at once suggest themselves to the reader why the public mind should view the execution of a woman with especial horror and disgust. The resistance offered to the application of capital punishment in cases of infanticide manifested itself both upon the trial and after, if, as rarely happened, a capital conviction took place. The last execution of a woman for child murder took place in 1849. The offender, Rebecca Smith, was tried before the late Mr. Justice Cresswell, in Wilts. She was believed to have murdered several children previous to the commission of the crime for which she ultimately suffered; and the knowledge of her antecedents doubtless influenced both the court and Home Office in treating the case with more than usual severity.

In the summer of 1851, a case occurred at

Church Stretton, in Shropshire, the result of which showed the growing tendency to punish this offence less severely than with death.

A young woman, named Mary Rogers, was convicted at the Shrewsbury Summer Assizes of destroying her illegitimate male child by drowning it, with, apparently, much deliberation. Rogers herself, being in service, had put the child under the care of a woman to nurse, and thus it remained for two months. At the end of that time she paid it a visit. Obtaining possession of the little creature, she took it to a pond, and there destroyed it by immersion, coolly bending a stick, so as to prevent the body from rising to the surface. In the course of a careful investigation on the spot, I could certainly discover no special grounds on which to base an appeal for mercy. Still there was a great desire, on the part of all classes, that the sentence should be commuted—even the committing magistrates sharing in this feeling, so far as to authorize the local superintendent of police to accompany and assist me in my enquiries. Our efforts were happily successful, and, contrary to our expectations, the sentence passed on Rogers was commuted.

We were soon, however, to learn how little reliance was to be placed in the long continu-

ance of a merciful disposition on the part of the administrators of the law.

At the York Winter Assizes, in the same year that witnessed the reprieve of Rogers, a young girl, named Sarah Ann Hill, was tried for the murder of her infant, not at the age of two months, but on the very night of its birth. Hill resided at the time with a man named Joseph Gill and his wife, Gill being a publican at Wakefield. The body of the child was left at the railway station in a hat-box by a woman, assumed, but not proved to be Hill, very early in the morning after its birth; and, perhaps, the most extraordinary circumstance connected with the event was, that Hill actually walked to Dewsbury on the same morning, the latter town being six miles distant from Wakefield. About a week afterwards she was arrested by the police on the charge of murder, and at once volunteered a statement to the following effect:—The child, she said, was born about two in the morning,—Hill occupying a bed-room by herself at the time;—that she had called Mrs. Gill to her assistance, who came, and soon summoned her husband; that Joseph Gill took the infant out of the room, his wife following; that she (Hill) fainted, and continued insensible for half an hour; that, on recovering consciousness, she

found the Gills again in the room, and asked, "Where's the child?" Then Mr. Gill, she said, answered, "It is murdered; and if you ever tell who has done the crime, you shall never have a home here again." She made no reply to this, and they again left her. Between five and six o'clock she went away to Dewsbury to a situation in a family with whom she had resided during the previous summer. Gill and his wife were arrested also, but discharged, and their testimony was then accepted as evidence against Hill. It was proved that Hill had prevaricated in some matters when taken into custody, although the railway porter, who had seen a woman leaving the station-yard at an early hour in the morning, expressed his belief that that woman was not the prisoner, and thereby considerably damaged the theory of the prosecution; still the magistrates inclined to the opinion that Hill's story was untrue, and accordingly committed her for trial, binding over the Gills to appear as witnesses against her. These persons, being thus enabled to clear themselves upon oath, whilst the simple statement of the prisoner was all the answer she could make to the charge, it is not surprising that she should have been found guilty.

The late Mr. Baron Platt presided at the

trial, and passed sentence in terms so extraordinary as to invite considerable criticism.

Most persons would be disposed to view the crime itself as one of a very commonplace description. Horrible as is murder in any form—shocking as is the idea of the mother destroying her offspring, even though the sense of shame may be pleaded in extenuation — still the fact that, in ninety-nine cases out of a hundred, juries insist upon finding the woman guilty of concealing the birth only, in order to avoid the risk of the fatal consequences of a verdict for the capital offence,—that moreover the Home Secretary had for years almost invariably recommended the commutation of the capital sentence when passed; it was impossible, looking at the evidence against Hill, so far as it related to the crime of which she stood convicted, to see that it was so flagrant as to constitute a special exception in favour of severity. Yet if Baron Platt had been passing sentence on a Greenacre or Mrs. Manning, he could not have expressed himself in stronger language, or more completely extinguished all hope of mercy. Said the judge: "You have been convicted of an enormous crime, the commission of which *shuts out from the unfortunate convict the hope of mercy.*

. . . . a murder committed with a degree of barbarity which shuts every hope out from you of anything but the last doom. . . . You found yourself in a difficulty, and in order to extricate yourself from that you thought fit to make a statement by which you perilled the life of the man under whose roof you had found an asylum, whenever elsewhere you had not one. A more diabolical attempt on an innocent man can hardly be conceived. . . . *You were said by your mistress to be a kindly young woman and well behaved;* but it seems that in the course of this transaction that mildness has abandoned you, and that you had addicted yourself to the first barbarity in sacrificing the life of your child, and then coolly sat down and made a narrative by which an innocent man was perilled to be sacrificed on the gallows. To be sure there never was such a case as this brought before a court of justice. The crime you have committed would be enough, *but the circumstances attending your crime, and the consequences of it, are most extraordinarily wicked. 'If one man sin against another, the judge may judge him, but if he sin against the Lord who shall entreat for him.'* . . . . I trust that the entreaties of the pious and your own supplications will be addressed to making your peace

with Heaven, for as far as your judge is concerned be assured that mercy cannot be extended." From these observations it was pretty evident that the learned baron, whilst denouncing the original offence, was really sentencing the wretched culprit to die for the subsequent representation concerning Gill; an act wicked indeed, if she was herself guilty, but her only means of justification, if innocent. It never seemed to occur to Baron Platt that the evidence against her, irrespective of Mr. Gill's statements, being far from conclusive, there was just a possibility her story might be true. Nor, it may fairly be supposed, could anyone but himself discover the special applicability of the particular text of Scripture he quoted, to the conduct of Sarah Ann Hill. It would seem to most minds that her sin was peculiarly one against her *fellow-man* as represented by her murdered child and, assuming her to be guilty, Joseph Gill. If it was of that class of transgressions which forbids the entreaty of the All-merciful, why commend her to "the prayers of the pious." I have encountered some crude theology in my day, but certainly Baron Platt beats all competitors for the honour of perverting or misapplying the Scriptures. The reporters gave the judge credit for dis-

playing much emotion when he finally ordered the prisoner for execution. But he adhered inexorably to his determination that no action of his should save Sarah Ann Hill from the gallows.

The public outside, however, were rather disposed to question the propriety, both of verdict and sentence. The impression was general that, even if Hill was an accessory before, instead of *after* the fact as she acknowledged, she had not been without accomplices, who were escaping scot free while she suffered. That instinctive love of fair play, always to be found amongst English men and women, demurred to this uneven-handed justice, and means were at once taken to bring the case before the Home Secretary. The condemned girl's solicitor, Mr. Barratt, Mr. Alderman Leeman, and Mr. George Wilson, of York, came to London as a deputation, backed by well-signed memorials asking for a reprieve. They secured the assistance of Mr. (afterwards Sir William) Milner, M.P. for York city, and had an interview with Sir George Grey at Whitehall. Evidently under the influence of the judge, Sir George Grey rejected the appeal.

Many other persons interested themselves, but still without effect. The fatal day drew

near; Saturday, January 12th, 1852, at noon, was the time appointed for the execution. On the Friday preceding, renewed attempts were made to influence the Home Secretary to alter his decision. At the instigation of Mr. Gilpin, who had been unwearied in his exertions, the Rev. Dr. Mortimer, Head Master of the City of London Schools, and a personal friend of Sir George Grey, went to the Home Office, and as a minister of the gospel of mercy pleaded for the condemned woman. In vain! During the day Mr. Alderman Leeman, unable to forego the satisfaction of making one more effort, came again to London, and, with Mr. Milner, sought another interview with Sir George Grey. It was reluctantly granted, the minister evidently shrinking from further discussion, and most painfully feeling the position in which he was placed. A long conversation ensued, in which both sides waxed warm with their subject, and at its close Sir George Grey, still refusing to interfere, intimated that he would receive no further communication upon the case. The two humane suppliants for mercy quitted Whitehall, convinced that now all hope must be abandoned. They telegraphed the sad result at once to York Castle, where no less anxiety was felt by the officials, especially the excellent governor and

chaplain, than by themselves. Let us leave them for a moment, and witness the scene in the condemned cell. A brother and female cousin of the prisoner have come to bid her farewell for ever. The matron and chaplain are there also, and the latter invites all present to join in prayer. In a few words he commends to the mercy of "our Father in heaven" the soul so soon to be summoned to judgment. He rises from his knees; all present are weeping bitterly. Then, taking the prisoner by the hand, he says, "Now, Sarah Ann, all hope is over; in a few hours you must die. Tell me, before your friends leave you, the simple truth; —I don't ask you to confess, but merely to tell the truth." Then the girl, in a manner that conveyed the strongest assurance of truthfulness to the mind of her questioner, repeated the same story she had told the magistrates at Wakefield three months before, and consistently adhered to ever since. Much distressed from the conviction that she would suffer unjustly, Mr. Sutton took counsel with the governor. He decided at once to despatch to Mr. Milner, M.P., a telegram, of which the following is the substance:—"From what has just passed in the condemned cell, the chaplain of York Castle believes Sarah Ann Hill to be not guilty." This sent off, Messrs.

Noble and Sutton anxiously awaited the result.

Now it happened that when the telegram reached Mr. Milner's house he had not returned from the Home Office. But here a lady's sagacity averted the mischances attendant upon delay. Mrs. Milner, well aware of the urgent nature of the communication, and struck with the decided opinion it expressed, did not wait for her husband's return, but took the message immediately to her neighbour, Mr. Baron ——, who fortunately lived near. As that learned judge is still living, I omit his name. May he long adorn the judgment-seat with his presence. Baron —— forthwith carried the chaplain's missive to the Home Office; and, however resolved Sir George Grey may have been to hear no more on the subject, one of the judges of the land could not be denied.

What passed between the judge and the minister of course could be known to themselves alone. From the issue it may be assumed that the former took the liberty of challenging the conduct of his brother judge, and sustaining the responsible adviser of the sovereign in pursuing a course directly contrary to Baron Platt's opinion.

The chaplain of York Castle had barely despatched his message, when the bell rang, and a

boy from the telegraph office brought from Ald. Leeman the report that his mission had proved fruitless. An hour passed, the chaplain and the governor pacing the yard together, in a suspense most agonizing. Then comes the telegraph boy once more.—"A GOVERNMENT MESSENGER LEAVES LONDON FOR YORK TO-NIGHT, BEARING A WEEK'S RESPITE FOR SARAH ANN HILL."

I had been to the Home Office late in the afternoon, and learned from Mr. Everest, the courteous chief clerk of the Criminal Department, that the law was to take its course. Great, therefore, was our surprise when, on the Saturday morning, we read in the papers the announcement of the week's respite. Fearing that this was but for the purpose of investigation, on the result of which might still depend the dread question of life or death, I lost no time in going down to York, in order to obtain from the jury an expression of their wish that the sentence should be commuted. They were scattered far and wide over the West Riding; but one and all readily signed the memorial presented for their adoption. Let me add, too, that several of them distinctly declared *that they would have returned a different verdict, had they imagined for a moment that the sentence would be executed.* At the end of the week a respite "during pleasure"

was received at York Castle, and the sentence was finally commuted to one of transportation for life. I was told, too, that, when informed of the sudden change in Sir George Grey's determination occasioned by Baron —— 's visit, Baron Platt had expressed himself as "glad of it." It deserves to be mentioned, that on the day of the chaplain telegraphing to London, a violent gale of wind had injured the wires, and the mischief was repaired only just in time to admit of the transmission of the message on which, as it proved, a human life depended.

In another case which came to light during the year 1852, the jury, warned, it may be, by the narrow escape of Hill, took upon themselves to guard against any fresh freaks on the part of judge or Home Secretary by acquitting the accused person altogether. A girl, named Louisa Walborn, was indicted for the murder of her infant, at the Summer Assizes for Dorsetshire, held in the above year. The mother and child had both received proper attention at its birth, and were left by the two women in attendance for a short time only, when they heard the infant utter a loud scream. Walborn said it had had a fit; but one of the women examining the little creature, found its lips blackened, and mouth burnt. When asked what she had done to the

child the mother replied, "Nothing." In a few hours it was dead. A surgeon being called in, deposed that the appearances were not reconcileable with natural causes; but that there were evidences of poisoning with oil of vitriol, of which distinct traces were discoverable. Walborn had two boxes, a large and smaller one. Immediately after the child's birth, she had asked for the latter. The policeman, searching in the road, which ran under a window at the head of the woman's bed, found there a bottle containing oil of vitriol, evidently thrown out by Walborn as a means of getting rid of it, and so avoiding detection. Mr. Baron Martin, who tried the case, told the jury that "here was murder or nothing at all," and expressed his opinion that no ground whatever existed for the hypothesis that the poisoning was occasioned by carelessness or mistake. Of course, as the child had been born in the presence of witnesses, "concealment of birth" was out of the question. The jury, however, returned a verdict of "not guilty," a group of girls collected outside the court greeting the announcement with jocular assurances of the impunity with which they, in their turn, might practise the art of child-murder.

The year 1853 found Lord Palmerston in-

stalled at the Home Office; and that most genial and good-natured of ministers had his full share of responsibility arising out of the operation of the capital penalty. I shall have occasion to allude to several of his experiences in the course of my narrative. Lord Palmerston's method of dealing with such cases was generally prompt and decisive. He acted, perhaps, too stringently upon one rule in particular, namely, that intoxication should be no excuse for crime; and, in at least two instances, he seemed to lean to the side of severity under the influence of that determination. But on other occasions he showed a disposition to respond to appeals for mercy with a readiness that did him infinite honour. On one occasion, however, he was played something like a trick, although it was not so intended by the too active philanthropist who imposed upon his humanity.

A man named James Barbour committed, near Sheffield, a most foul and deliberate murder on the person of his companion, named Alexander Robinson. They were both hawkers, and had been friends. Under the promise of introducing him to some good customers, the murderer had induced his unsuspecting comrade to accompany him across the country, and then, in a lone spot, shot him dead with a pistol, afterwards decamp-

ing with the watch, money, and pack of his victim. All these were traced to his possession, and Barbour's only defence consisted in imputing the commission of the crime, with the most circumstantial details, to a young man named M'Cormick, whom he employed to pawn Robinson's watch; on that account M'Cormick was at first taken into custody, but, being able to give a full account of himself, was discharged.

Barbour being, in due course, committed, was tried at York Assizes, and found guilty. His fate excited the commiseration of a person named Dickson, who resided at Bury, where lived the convict's friends. Mr. Dickson had an interview with Barbour in York Castle, and there the prisoner repeated, with some additions, the story about M'Cormick. His manner did not deceive the experienced officials, although it imposed upon Mr. Dickson, who hurried up to London to see the Home Secretary, and pray for a respite and further inquiry.

Lord Palmerston's habit was to transact the business of his office principally at home, coming down to Whitehall late in the day only. Mr. Dickson importunately assailed the officials for an interview with their chief; and, at last, wearied by their assurances that he was not there, set out for his lordship's residence. As

he crossed the Park, seeking the minister's house, he accosted a gentleman to inquire its whereabouts, and found that he had encountered the Home Secretary himself, who, with great courtesy, appointed to receive him during the evening.

This step gained, Mr. Dickson was not to be got rid of without a respite; and a respite he obtained the same night, with directions to the Sheffield magistrates to investigate Barbour's statements. Those functionaries at once proceeded to open a full and public inquiry, which M'Cormick voluntarily attended. It resulted in his complete vindication; and at the end of the week Barbour was hanged,—at the last, but only the last, confessing his guilt. As for Mr. Dickson, after gaining the respite, he was no more heard of, returning at once to Bury, instead of remaining at Sheffield to assist the cause of his client. Lord Palmerston subsequently alluded, in the House of Commons, in pretty severe terms, to the manner in which Mr. Dickson's too zealous interference had been exerted on behalf of a most unworthy object.

A very different case was the following:—

At Bedford Spring Assizes, in 1854, an old man, named Abel Burrows, was tried for murdering an aged woman, he being at the time in a

state of frenzied excitement. The wretchedly forlorn condition of the accused, and the circumstances under which he was tried for his life, were graphically described in the following article in the *Boston Guardian*, a copy of which paper was forwarded to Mr. Bright, M.P. :—

"Last Saturday night, about seven o'clock, when the assize court at Bedford was exhausted by one of the severest day's labours which could well be imagined, a human being was placed at the bar, arraigned upon a capital charge, and the trial of life and death proceeded. The hall was lit with a few candles, which scarcely served to show the wigs of the barristers. The Lord Chief Baron was faint and fatigued from excessive toil, and could not keep his temper. The prisoner was undefended, and did not appear to have the sympathies of a single soul; and, to crown the whole, one of the jury summoned to try him was either so drunk or so stupid as not to be able to distinguish his right hand from his left. A more painful scene was never witnessed in any court of justice. Two barristers held the brief against the prisoner, and another barrister, in no way connected with the case, bent over the table and said to the prosecuting counsel, 'One of the jury is drunk,'—the reply we heard with our own ears, and it was,—'O

very likely.' How was it very likely? We will explain. The jury that had been sitting all day, retired to consider their verdict, and a new jury had to be empannelled of those gentlemen who had been waiting about the lobbies, no doubt consisting of some who had paid a visit to the hotels in the neighbourhood. When the book was put into the hands of one of them, he certainly knew not what he was doing, as was evident to those who sat underneath; and the officer who administered the oath had great difficulty to get this man through his task. The medical gentleman who happened to be in court declared Burrows was insane, the jury almost without hesitation said the prisoner was not insane, and the court sentenced him to die. Well, next morning being Sunday, we happened to take our seats in a railway carriage, and had scarcely sat down, when a rough man entered, and coarsely made an allusion to a subject too abominable for us to mention. Then being seated, this man looked to the company and said, 'Didn't we cook that fellow's goose last night?' The speaker was one of the jury who found Burrows guilty."

When the wretched old creature was asked if he was guilty he replied, "I don't know; if I

am guilty I was insane at the time." It was proved, too, that after committing the crime, he had sung "Glory! glory to the Lord! Hallelujah!"

In a few well-reasoned sentences, Mr. Bright gave his opinion upon the case to Lord Palmerston, and, enclosing the article from the Boston paper in his letter, handed it me to deliver at the minister's house. It was just after Mr. Bright's delivery in the House of Commons of his tremendous philippic against Lord Palmerston and Sir James Graham, for countenancing the levity which characterized the Reform Club dinner, given to Admiral Sir Charles Napier on his appointment to a command in the Baltic. I saw a grim smile upon the face of the dignified "Jeames," as he glanced at the name in the left hand corner of the envelope. But if his master had specially desired to show that the castigation had left no soreness behind it, he could not have more promptly or more gracefully responded to the appeal. It was ten o'clock when I left the letter, and at noon the order to send down a reprieve for Abel Burrows had reached the Home Office.

Another old fellow had to thank Lord Palmerston for prolonging his days, who had been guilty of an offence not unlike that

which had led to Burrows' conviction. This worthy, Michael Cosgrove by name, was one of a number of Irish residing in a poor lodging-house in Liverpool. An old woman, a cripple, in the same house, happening to offend him, Cosgrove one morning invaded her bed-room, and, in a rage, beat her about the head with her own crutches, speedily causing her death. A memorial was forwarded from Liverpool, urging that Cosgrove's age—eighty-four years—should be admitted as a ground for the extension of mercy. On calling at the Home Office I found that Lord Palmerston was not indisposed to grant a reprieve, provided that he could be furnished with any precedent for sparing a man's life on account of his age. It had happened some two years previously that I had seen in the *Observer* newspaper, a semi-official report of cases then under Mr. Walpole's consideration. One paragraph ran thus:—"William Rollinson, who was left for execution at Bury St. Edmunds, has had an application made on his behalf at the last moment. His life will be spared in consideration of his extreme old age—*eighty-three years!*" Now here was a case of deliberate poisoning, for that was Rollinson's offence, and the convict was only eighty-three. Cosgrove's, on the other hand, was

but the result of an ebullition of brutal fury, and he was *eighty-four*.

Armed with this fact, I returned to the Home Office; it was duly taken into consideration, and in a few hours the noble lord, now Premier of England, had affixed his imprimatur to the doctrine, that a man may have the good fortune to be *too old to be hanged*.

The preparations for the execution had been made, Calcraft was in attendance, and the crowd was collecting, when the reprieve reached Liverpool. Mr. Thomas Wright, the prison philanthropist, was in attendance on the condemned man; and when that excellent old gentleman left Kirkdale prison, after receiving the news that Cosgrove's life was spared, the mob pelted him with dirt on the assumption that it was he who had obtained the respite, and so deprived them of their anticipated diversion.

In respiting Cosgrove, Lord Palmerston acted in a manner the very reverse of one of his colleagues in Lord Aberdeen's Administration. Sir James Graham, when Secretary for the Home Department, in 1843, had refused to interfere with the action of the law in a case very similar to Cosgrove's, the criminal, Allan Mair, in that instance being precisely Cosgrove's age

—eighty-four. Mair had beaten his wife so brutally as to cause her death. From the *Spectator* of October 14th, 1843, I have taken the following :—

"On Wednesday week, an old man—eighty-four years of age—was hanged at Stirling for murder. A scene of unusual horror had been looked for, but the reality seems to have exceeded all anticipation. The morbid impulse which had impelled him to his crime, stimulated by his coming doom, found vent in imprecations on all who had borne witness against him, and sustained him to bear in his own person, with something like triumph, the commensurate violence of the law. For many a day in Stirling, the dying curses of old Allan Mair will serve, when recounted, to gratify the common appetite for tales of terror ; children will listen to them, and enact his wizard-like gesticulations in their unwatched play ; and his words fixing themselves, perhaps even at this moment, upon some minds prone to dwell upon them with an indescribable fascination, may yet bring forth the fearful fruit for which, in his prophetic fury, he so sublimely prayed. . . . . And yet, in justice to the public, it must be urged that this act of barbarism was neither called for by vindictiveness on their part, nor suffered to take

place through their indifference. It will go forth to foreigners as an instance of national debasement; but the disgrace of the proceeding rests only with a few—perhaps, indeed, only with a single individual. After the trial, the utmost effort was made, by the authorities of the town, to obtain a remission of the sentence; and a petition was forwarded to the Secretary of State, but the answer returned was, that 'the law must take its course.'

"He was attended by several ministers, to whose religious instructions he listened most attentively, and even sometimes appeared to be softened and affected, exhibiting, at the same time, a pretty accurate knowledge of the principal doctrines of the Bible. Yet it was apparent these made and left but a slight impression on his mind; and he would eagerly turn from such topics to talk with all the garrulity of age concerning his former life, his trial, and the testimony of the witnesses. On these occasions he generally gave way to passionate bursts of grief, almost invariably succeeded by denunciations of the wrath of God on the heads of those who gave evidence at his trial; and, sitting up in bed, from which he seldom rose, he would clench his hands, and vehemently declare that he was innocent of the

murder of man, woman or child. He went to bed at eleven o'clock on Tuesday night. About two o'clock on Wednesday morning he awoke, and hearing the noise made by the workmen in erecting the scaffold, anxiously inquired the occasion of the noise, and immediately added, 'Oh, ay, they're putting up the gibbet. What a horrible thing to be hanged like a dog!' He then fell into a disturbed sleep, from which the striking of every hour awoke him; and he would exclaim, 'That's an hour less I've to live!' At the time for rising, he was with difficulty persuaded to dress. He would receive no sustenance in the shape of food, but eagerly drank a glass of wine. He then took farewell of Mr. Campbell, the governor of the prison, and thanked him warmly for the attention and kindness with which he had treated him. As the hour approached, he became very restless; and on leaving the cell was very much agitated, and wept bitterly. He had previously declared his resolution not to walk; and had accordingly to be supported by two men, who led him into the court-house. During the customary religious exercises, he wept much, the tears streaming through his bony fingers when he pressed them to his face; and every now and then he wrung his hands. He seemed to take little

notice of what was passing around him; his mind being evidently absorbed in thinking of his approaching execution. After the exercises had been concluded, a glass of wine was brought to him; but he resolutely refused it, declaring that 'he would not go into the presence of God Almighty drunk.' Here the executioner, who was singularly attired in a light jacket and trousers seamed with red and black, and a huge black crape mask, entered the room; on seeing whom, Mair started back, and every limb appeared to quiver with the intensity of his excitement. The executioner then advanced to pinion him; but Mair shrunk away, evidently alarmed at his approach. On the rope being passed round his arms, he complained that it was hurting him. 'Oh, dinna hurt me,' said he, 'dinna hurt me! I'm auld—I'll mak nae resistance. An' oh! when I gang to the gibbet, dinna keep me lang—just fling me off at ance.' After some difficulty he was pinioned; and, the mournful procession being formed, he was led out between two officers to the scaffold.

"On emerging from the court-house, and when the gibbet and the immense crowd met his gaze, he held down his head, and groaned piteously, lifting up his hands and ejaculating, 'Oh, Lord! oh, Lord!' He was instantly

led to the drop ; but he declared he was unable to stand ; and as he had expressed a resolution to address the multitude, a chair was brought for him. On sitting down, he appeared to gather additional strength and resolution, and addressed the crowd thus :—

" 'I hope you will listen attentively to what I am now about to say to you, as this is the first time I have been permitted to tell my mind to the public. I have been most unjustly condemned through false swearing; and here I pray that God may send his curse upon all connected with my trial ; I curse the witnesses with all the curses of the 109th Psalm. There is one person connected with the parish who brought in false witnesses to condemn an innocent man. When in prison, this person came to visit me ; but I told him that it was a wonder the God of heaven did not rain down fire and brimstone upon him as he did upon Sodom and Gomorrah. He it was who brought false witnesses against me—who brought Roman Catholics, who worship stocks and stones, and others to swear away my life ; but God will curse and eternally damn him.'

" After going on in a similar strain for a minute or two, he paused for a little space ; upon which the executioner, thinking he had concluded, stepped towards him, and inquired if he had

done. 'No, sir, I am not done,' replied he, warmly, lifting up his clenched hand, and striking it violently upon his knee; 'I'm not done, and I'll say much more if they'll allow me.' And he went on with the same mixture of asseverations and curses for about five minutes more. Then there was prayer. The Rev. Mr. Leitch bade him farewell, when he stretched out his hand, saying, 'Farewell, sir, farewell; I'll soon be in eternity.' The executioner then put the cap on the old man's head, adjusted the rope, and placed the signal handkerchief in his hand. At this time he was sitting on the chair on the drop, and, although the cap was drawn down over his face, continued muttering his anathemas against all who had connexion with his trial. He was then desired to rise from the chair, in order that it might be removed, but he replied that he could not, wept piteously; and, while in the act of exclaiming, 'May God be ——,' the fatal bolt was withdrawn, and the wretched old man, uttering a heavy groan, was launched into eternity. For a moment he raised one of his hands, which had not been properly pinioned, to the back of his neck, seized the rope convulsively, and endeavoured to save himself; but his grasp instantly relaxed, and after struggling violently for some time he ceased to exist."

CHAPTER VII.

Child-murder—Extraordinary Verdicts—Elizabeth Ann Harris—Celestina Somner—Precedents—Respites—"Justice in Granite"—Mary Gallop—Baron Gurney—Martha Browning—Harriet Parker—Sarah Barber.

I HAVE mentioned some of the foregoing cases as indications of Lord Palmerston's general indisposition to sanction executions when any grounds of a mitigatory character could be urged on the culprit's behalf. We will now see how he dealt with a case of deliberate child-murder, the little victim being six years old.

A young woman, named Caroline Sherwood, residing at Lewes, became the mother of an illegitimate child. She subsequently removed to Brighton, into service, the infant being placed in the hands of a respectable woman, who brought it up with care, the mother contributing to its support. It was described to me as being a lovely, interesting little creature, one that numbers of childless women would have gladly adopted

as their own, and this the mother knew well. She had always exhibited a fondness for the child, and one afternoon called on its caretaker, and under the pretext of taking it to see some friends at a distance, walked with it on to Hove Downs. There its naked body was found. The mother had strangled the child, and stripped it of its clothes to avoid identification. These were found in her box, when she was arrested; and in the pocket of the little frock were some sweetmeats the loving little creature had begged of its protector "to give to mother." In Brighton public feeling ran strongly against Sherwood; but in Lewes, where she had been known formerly as an inoffensive and hard-working girl, striving to support her infant by her labour, a less hostile sentiment prevailed.

The late Right Hon. Henry Fitzroy was then member for Lewes, and filled the office of Under-Secretary of State for the Home Department. His influence was invoked, and, I must confess, to our surprise, the sentence on Sherwood was commuted to penal servitude or transportation for life; and I had the satisfaction of hearing some who had been opposed to any application for mercy express themselves afterwards as highly gratified that humanity had secured another triumph.

Whilst the Home Secretary was thus virtually repealing the capital penalty for child-murder, juries were not less willing than cabinet ministers to aid in its practical abolition. One curious illustration of this tendency occurred at Exeter in 1855. A girl named Eliza Boucher was tried at the Devon Spring Assizes for the murder of her two infant children. On a former occasion she had been in peril for a similar offence; but, having burnt the body of the child, it was impossible to say that it had been born alive, and consequently a verdict was returned of "guilty of concealment of birth," and Boucher suffered, for that offence, six months' imprisonment. Shortly after the birth of the two children for whose deaths she was called upon to answer in 1855, she was seen by a male fellow-servant, under circumstances which led him to suspect what had occurred. A cry proceeded from a tub. He challenged her with having had a child, whereupon the prisoner sat down and deliberately pressed her hands upon a bundle in the tub from which the cry had proceeded. That bundle contained the body of one of the children, and both were found to present signs of strangulation. Yet the jury returned a verdict of not guilty, and Boucher was discharged.

A verdict even more remarkable was returned by a Cumberland jury early in the following year. A young woman, named Margaret Robinson, was tried at Carlisle for the murder of her infant. When the child was found, it had been secreted by the mother for some time after its birth, its neck bore the mark plainly of a cord or tape having been drawn tightly around it; but the clearest proof that the murder was perpetrated intentionally was the fact that two pieces of rag had been forced into the child's throat in a manner that could not possibly have been the result of accident, but must have required considerable effort to accomplish. The jury, in the teeth of this evidence, found Robinson guilty *of concealing the birth*, the judge (Martin) exclaiming, when he heard it, "Not guilty of murder?" and informing the culprit, as he passed sentence of eighteen months' imprisonment, that if the verdict had been for the capital offence, he would have felt it his bounden duty to have left her for execution.

At the Central Criminal Court Sessions, in March, 1856, Sir George Grey being then Home Secretary, two women stood arraigned for child-murder at its bar; their trials, however, were postponed till the following sessions in April.

The two cases differed widely in their character, and so did public opinion respecting them. It is probable, however, that their occurrence at the same time created a logical difficulty in the mind of the Home Secretary, and that the reprieve of the one rendered almost impossible the execution of the other. Elizabeth Ann Harris stood indicted for the murder of her illegitimate daughter, five years of age, by drowning her in a canal near Uxbridge ; and a second indictment charged her with the commission of a similar offence upon the person of a younger child, aged three years. The poor creature appeared in the dock with an infant only three months old in her arms.

The father of the two deceased children had deserted them and their mother, who had placed them in the parish workhouse. Another man, with whom the prisoner had afterwards lived, was the father of the infant, and he being at Portsmouth, Harris determined to travel thither to join him. Before starting, she fetched the two elder girls from the workhouse, expressing her intention of taking them with her. Subsequently their dead bodies were found in the canal, and Harris was arrested on the charge of murder. Whilst in custody at the police station, she said "that she had seen so much trouble lately that she had

no wish to live. She hoped that some letters that had been taken from her would not be shown in court; they were from the father of her last child, and he had no knowledge of what she was going to do with the children. The father of the child was at Portsmouth, and he wished her to go to him; but she could not take the children with her, and she would rather see them drowned than in the charge of others." *She then said "that she took them down to the canal and threw them into the water, and they neither cried nor screamed."* The prisoner added that she had told her sister that she was going to put the two children to bed at Mr. Tollett's, and she asked if people did not sink when they were thrown into the water. She added, "They did not sink, or else they would not have been found. I did not stay to look at them more than a minute."

On this evidence the jury had no choice but to convict, nor did they even add to their verdict a recommendation to mercy. The Judge (Cresswell) passed sentence of death, and the wretched creature was carried from the dock vainly shrieking for mercy.

The other child-murderess was a married woman, Celestina Somner by name; but the victim in this case was not the daughter of her

husband. The child was from ten to twelve years of age, and had been, as might be expected, a source of disagreement between Somner and his wife, who had lived very unhappily together. The mother had placed her under the protection of a person residing near them, to whom she paid a small sum weekly, until one evening, when she took the little creature to her own home, led it into the cellar, and there deliberately cut its throat, a servant girl about fourteen years old being in the house at the time, and hearing the cries of the victim as it was inhumanly slaughtered. The plea set up in defence was, that the prisoner, through distress of mind, occasioned by her husband's conduct, was not at the time responsible for her actions. As, however, no evidence to prove this existed, except the horribly unnatural character of the deed itself, the verdict was necessarily "guilty," the sentence "death," and Somner, in a fainting condition, was carried to the condemned cell. Whilst the cruel desertion of Harris by the father of her children, and her utterly forlorn and destitute condition, excited on her behalf a very general feeling of commiseration, no such sentiment was exhibited in favour of extending mercy to Somner. It seemed impossible to conceive any form of child-

murder more atrocious than was presented by her crime. But it was equally plain that if she were reprieved the law could never again be enforced in cases of that description. I confess to have felt considerable anxiety to see this result, and addressed an appeal to the Home Secretary on behalf of the two women, of which the following are extracts:—

"..... For several years no woman has been executed at Newgate. The last execution of a female there was attended with circumstances that excited pity for the criminal, and abhorrence towards the law that inflicted the death-penalty. It is to be feared that the execution of two young and weakly persons would be attended with equally distressing circumstances, which would only perpetuate the feelings of disgust, which recent events at the same prison have created. Although in various parts of the country women have suffered death for the crime of murder, yet, as I took the liberty of remarking on a recent occasion, reprieves have been granted in every case that has occurred for some years in which women have been convicted of *child-murder*. A precedent has thus been established, any departure from which I venture to predict would be viewed with the deepest regret by the public generally. . . . . .

The fact that the reckless debauchee, who has first led the wretched culprit into vice—thus damaging her moral principle, and blinding her sense of right and wrong—escapes from all human punishment, whatever temptations to crime may afterwards assail his victim, is a powerful reason why mercy should be extended in cases such as these. The following list of a few cases extracted from my note-book will sufficiently establish my assertion as to some existing precedents, sanctioned by two Home Secretaries—my record not being complete for the period during which Mr. Walpole filled that office:—

Year	Name.	County.	Nature of Offence.	Reprieved by
1851	Mary Rogers	Salop	Drowning	Sir G. Grey
1851	Maria Clark	Suffolk	Burying alive .	Sir G. Grey
1853	C. Sherwood	Sussex	Strangling ...	V. Palmerston
1853	Gibbons & Gerraty	Chester	Poison with oil of vitriol	V. Palmerston
1853	J. Chenoweth	Cornwall ...	Drowning.....	V. Palmerston
1855	E. M'Intosh ...	Fife	Throwing into a pit	Sir G. Grey
1855	Marg. Davies	Montgom. ..	Drowning.....	Sir G. Grey

"Others might be quoted, but I trust these will suffice; the fact that one of the wretched young women for whom I appeal must have been seduced at the age of fifteen years, and that the other has, at this moment, an infant

only three months old, should plead powerfully on their behalf."

Contrary to his usual custom of resisting so far as possible all attempts to urge the plea of insanity in extenuation of murder, as I shall have occasion, in the course of this narrative, to show, often, as it seemed to me, with grievous injustice to the accused, Sir George Grey—either from the fear of appearing too illogical if he reprieved Harris and hanged Somner, or yielding, as it was whispered, to influences from quarters that could not be disregarded—chose to assume that Somner must have been insane when she committed the horrid deed; and the sentences on both women were commuted.

Sir George was not left without criticism for this boldly merciful decision. The subject was referred to in Parliament, and sundry unfavourable comments appeared in the Press. But after all, the Home Secretary was right, although perhaps unconsciously to himself. Somner, if not insane when tried soon became so beyond all dispute, was removed to an asylum, and died a lunatic.

Having glanced at the state of public opinion, and the action of the executive in relation to cases of child-murder or infanticide over a period of six years, and under four

different administrations, I shall endeavour, by reference to other facts, to illustrate the course pursued, when for murders of a graver description the lives of women were placed in jeopardy. In order to do this effectually, and in simple fairness to men who deserve the highest honour for their noble resistance to the infliction of the death penalty, when justice seemed too sternly to exact its dues, I must go back to the year 1844. At that time Sir James Graham filled the office of Home Secretary; and, had it been determined to place in the position of the Sovereign's adviser, in the exercise of her Royal prerogative, one whose heart had no place for pity, whose nature possessed no tenderness, who knew not nor could comprehend the principle on which his Queen had sworn to administer "justice in mercy," there could have been found no more fitting instrument than he on whom *Punch* conferred the appropriate soubriquet of "Justice in Granite."

In the above-mentioned year, a steady, sober man, named Richard Gallop, was employed at the railway carriage works of the London and North Western Railway Company at Crewe. Gallop was a Wesleyan Methodist by profession, and much respected for his high character by

the officers of the large establishment at which he worked. He had an only daughter, named Mary. When the girl had nearly reached the age of twenty-one years, her mother, in a fit of insanity, put an end to her existence. The daughter was of a sullen and morose disposition, just such an one as is usually indicative of that latent insanity which first develops itself in some overt act of mischief or violence. Still she was regarded as a harmless, inoffensive creature, and no one suspected her to be capable of planning or committing a great crime. At length Mary Gallop fell in love, and, unfortunately, with one to whom her father resolutely objected. Whether Gallop's religious sentiments caused his opposition, or whether he saw better than strangers the germs of hereditary brain-disease in his child, and chiefly on that ground forbade the intimacy, is not known. It is, however, quite clear, that he suspected her mind was affected, by remarking on one occasion, "Mary was going like her mother," alluding to his wife's insanity.

I believe their last contention concerning the love affair arose from Mary Gallop wishing to meet her lover in Liverpool. Finding her father's resolution unalterable, she took the fatal determination of removing all obstacles by poison. Her first idea of this awful crime was engen-

dered by reading a story of a young woman having destroyed her father, under circumstances similar to her own. Probably, too, the fact that Richard Gallop was fond of medicine as a study, and kept a variety of drugs in his possession, assisted her in her design. The instrument she selected—the common one in those days—was arsenic. She purchased three separate pennyworths, and mixed them in food of her own preparing. A cake was the first vehicle for the deadly purpose; but Gallop happening not to eat it, she had recourse to arrow-root. It took effect, and Gallop died. His body being subjected to a post-mortem examination, arsenic was easily detected. Its possession and administration were readily traced to his daughter, and Mary Gallop was committed for trial at the Chester Winter Assizes.

She had no relatives who appeared to care for her fate, and it was left for Mr. Nathaniel Worsdell, the head of the railway carriage department, who had known her from her childhood, to provide her with a suitable defence. Baron Gurney tried the case—he who had been prosecuting counsel at the trial of Eliza Fenning in 1815, and had turned a deaf ear to the recommendation to mercy from the jury who found Wren guilty of arson at Lewes in 1832.

The plea of insanity failed, and Mary Gallop was condemned to die.

Great public sympathy was exhibited for her in all quarters, arising out of the strong belief that she was insane. The Bishop of Chester, Chancellor Raikes, the whole of the clergy and dissenting ministers of Chester, with one or two exceptions, joined in petitioning for mercy. Mr Worsdell, whose opinion of the prisoner's intellect was, perhaps, the best that could possibly be obtained, seeing how long he had known her, went up to London with Mr. Tollemache, M. P., and presented a petition, backed by his own statements. But against the will or prejudice, or official stolidity, of the most merciless of Home Secretaries, backed by the sternest of modern judges, the prayer for mercy prevailed not.

During her imprisonment whilst awaiting execution, Mr. Worsdell and his excellent wife frequently visited the poor creature. She confessed her crime, and exhibited much penitence.

On the night before her execution she was removed from the county gaol, in which she had been confined, to the city gaol, where the gallows was to be erected. The near approach of the event brought on an attack of fainting, and it became evident that the scene on the

scaffold would be a most painful one. So, truly, it was. She was carried senseless to the drop, and thus strangled before the eyes of thousands collected to behold this splendid demonstration of the vindicated dignity of British law.

In the following year, the execution of Martha Browning took place at Newgate. She had murdered her aged mistress in order to possess herself of two "*Bank of Elegance*" notes, the girl being too stupid to understand that they were valueless.

Exertions were made to save her life, on the ground that she was really incapable, through defective intellect, of appreciating the enormity of the crime she had committed. The law, however, was not to be robbed of its prey, and Browning was hanged. But the scene on the gallows disgusted even the vile crowd that came to enjoy the spectacle. The hangman, with some roughness, pulled the culprit's cap from her head, and threw it on the ground, to replace it by the one that was to cover her face. Then he seemed to fumble a long time about her throat, whilst adjusting the cord; and, apparently through some mismanagement, the wretched girl's struggles lasted for fully ten minutes after the fall of the drop, the crowd, meantime, yelling furiously in condemnation of the brutal exhibition.

With these cases we may take leave for the present of the Netherby baronet, whose tenure of office will always be best remembered by his propensity to violate private correspondence, his betrayal of Italian patriots, and the inexorable rigour with which he sent English women to the gallows.

His successor was Sir George Grey, who came into office on the fall of Peel's ministry in 1846, and continued to act as Home Secretary until 1852. Sir George is even now filling the same post, for which it, may be assumed, he is supposed to be well adapted, having spent altogether twelve years in discharging its duties.

In February, 1848, a woman named Harriet Parker was tried at the Central Criminal Court for murdering two children, with whose father she cohabited. She had become acquainted with the man, Robert Henry Blake, at Birmingham two and a half years before; and this led to Blake deserting his wife, and Parker her husband, and the pair going off to London together, where they lived as husband and wife, Blake's two children, a girl of eight years and boy of five, living with them.

Parker appears to have been of a very jealous disposition. She would not unreasonably suspect Blake of unfaithfulness to her, when she remembered how he had acted towards his own

wife. Prompted, perhaps, more by jealousy than by a higher principle, she had especially annoyed him by putting two servant-girls upon their guard whom Blake attempted to seduce. One evening Blake ordered the woman to get him his tea, as he wanted to go out with a friend, a man named Hewlett. Parker urged him to take her also with him, but he refused. After tea he went out with Hewlett, Parker following. She was greatly excited, told him he should find "she had the very devil in her that night," and carried a piece of tile, or lead, tied in the corner of a handkerchief, as though for use if she were provoked too far. The party all entered a public-house, and had gin together, Parker still refusing to go home. Continuing their walk, they passed an old stump; and, to aggravate the excited woman still further, Blake kissed the stump, on account, as he said, of some one who came to meet him there. Shortly afterwards they entered a second public-house, called "The Duke of Bedford," where they encountered a woman named Jones, with whom Blake was too intimately acquainted. Taking advantage of Parker and Hewlett being engaged in conversation, Blake and the woman Jones slipped out together.

Parker soon discovered the trick that had

been played her, and also that Blake had told the landlord of the "Duke of Bedford" she was not his wife. The infuriated creature rushed home, and ordered the two hapless children at once to bed. When they were asleep she crept up stairs, strangled one with her fingers, and suffocated the other with a pillow.

She owned that she had long determined to be thus avenged on the father, although, at the time, the thought came suddenly upon her. No sooner, however, was the deed accomplished, than an agony of remorse followed. At four o'clock in the morning she gave herself into custody, and at eleven, Blake, returning from his night's debauch, first learned the awful event his conduct had occasioned.

The attempt, at the trial, to prove that excitement had overpowered her mental faculties failed; but, with a verdict of guilty, the jury coupled a very strong recommendation to mercy, on account of the great provocation the unhappy woman had received. No appeal for mercy, however, could move the Executive, and Parker was left to die. Her conduct in prison exhibited the most intense remorse for the crime. The chaplain (Rev. Mr. Davis) declared—and he was not one to be easily deceived—that he had seen no such evidence in any other case under

his care, of earnest, humble penitence. When the time for her execution came, she joined with the chaplain and attendants, all deeply affected, in singing a hymn. Then she received the sacrament, and that solemn rite was hardly over when the hangman entered to pinion her. Submitting quietly to that operation, she set forth to the scaffold, the whole company again joining in a hymn. But the mob had got impatient, for the devotions of the prisoner had somewhat delayed her appearance. Thirsting for their horrid treat, as the condemned one appeared at the door leading to the drop, a perfect tornado of yells, shrieks, and curses, fell upon her ear. The sight and sound of that crowd of demons was too much; the frightened creature fell fainting into the arms of the attendants, was carried forward, and hung in a state of insensibility.

In this, as in other similar cases, an objection was widely felt to the execution of the woman, whilst the man who had first debauched and then deserted her escaped scot-free. This sentiment has, doubtless, had an important influence in shaping the course of the Executive, in relation to capital offences perpetrated by women, arising out of the infidelity or cruelty of their husbands or male intimates.

The cruelty of the husband who was mur-

dered, and the escape of the wife's male associate, whilst she was convicted, were the main causes of the earnest efforts made to save Sarah Barber from execution at Nottingham in 1851. Joseph Barber, her husband, was a horse jobber and higgler, residing at Eastwood, near Nottingham, and had been married to his wife about five years at the time of his death. The wife was a remarkably fine woman, but subjected by Barber to the most revolting degradation. It would be impossible for me to describe the shocking depravity of his conduct; and, although the immorality of the wife is not to be defended on the ground that the husband has been faithless, there can be no doubt that the utter disgust provoked by Barber's treatment had much to do with his partner's shortcomings.

She formed an acquaintance with a young man named Robert Ingram, and the two together attended Barber in an illness occasioned by his excesses. After Barber's death, his wife and Ingram were both taken into custody on a charge of murder, and tried for the offence before Mr. Baron Parke, at Nottingham Summer Assizes. Both prisoners were proved to have bought arsenic, and could give no satisfactory account of its disposal. They had done this, however, without concealment, one penny-

worth being actually obtained from a druggist by Ingram, when out for a ride with Joseph Barber, who sat in his gig at the door whilst the purchase was made. It was also proved that Sarah Barber had endeavoured to induce a woman of her acquaintance to swear, if questioned, that she had seen her (Barber) throw one packet of arsenic into the fire.

The country surgeons who made a post-mortem examination, and attempted an analysis, failed altogether to detect arsenic. That poison was, however, discovered in considerable quantity by Dr. Wright of Nottingham and Professor Taylor; whilst the fact that the deceased had become suddenly worse after his mother, who had temporarily nursed him, had left him in charge of the wife and Ingram, made out a strong case against both the accused. One strong point urged in their behalf was that the assistant of the medical practitioner who attended Barber, and who had mixed the medicines supplied to deceased, was not forthcoming, although subpœnaed, at the trial; and the defending counsel made the most of his absence, suggesting the possibility that he had, by mistake, used an arsenical preparation when mixing the prescribed draughts. The jury, however, found the woman guilty, and she was sentenced

to death without hope of mercy, Ingram being acquitted for lack of legal proof to connect him with the administration of the poison.

Ingram's escape, and the provocation Sarah Barber had received from the deceased, induced a great number of influential persons to bestir themselves on her behalf, many of these being wholly opposed to the abolition of capital punishment generally. A memorial was extensively signed, from which the following is an extract:—

"Married, whilst a mere girl, to a man nearly twice her own age, who never bestowed the slightest degree of care to form her mind or manners by any rule of moral propriety, or purify her spirit by anything like religious instruction, but whose whole conduct, on the contrary, was calculated to ruin her soul, as well as degrade her body, through the medium of profligate habits, and loose, and vulgar, and wicked companions, we submit that it is not to be wondered at—with a person more than ordinarily attractive amongst women in her rank of life, and without family—that Sarah Barber should, by degrees, first lose all sense of her moral dignity as a rational and accountable creature, and eventually all regard to propriety in her conduct as a wife and a woman, and thus become prepared for the commission of the most

awful crime against the life of the man whose behaviour towards her had served but to awaken aversion to him as the bane of her life's joy, instead of fixing (as a contrary course, in all probability, would have done), her love and reverence to him as her protector and guide."

The memorial then goes into details which a regard for delicacy obliges me to omit.

Amongst the gentlemen most active on behalf of the condemned woman, was Mr. Hannay, a magistrate of Nottingham. He came with me to London, and at once sought an interview with the late Duke of Newcastle, in order to obtain his support for our efforts. After entering fully into the case, the Duke indited an admirable letter to Mr. Waddington, Under-Secretary of State, Sir George Grey being absent. We repaired to the Home Office, and, before we left, Mr. Hannay had the satisfaction of obtaining permission to telegraph to Nottingham that the prisoner's life would be spared. She was afterwards transported, and might, some few years afterwards, have been seen occupying the position of a respectable storekeeper in one of the Australian colonies.

CHAPTER VIII.

Annette Myers—Mr. George Thompson, M.P.—The Father—Public Meeting—Matrons in Error—Charlotte Harris—Women's Memorial—Alice Holt—Sarah Harriett Thomas—The Hangman's Consolation—William Bousfield—Horrible Scene—Catastrophe at Nottingham—A Strange Taste—Hanging Preferred.

By far the most interesting case, occasioned by the conviction of a woman for murder during Sir George Grey's first Secretaryship, was that of Annette Myers. To understand the intense excitement aroused by her trial, it will be necessary for me to give a sketch of her history up to the time of the fatal occurrence which led to her condemnation.

Annette Myers was the illegitimate child of a man whose name stood on the roll of England's lesser nobility. Her mother was—well, let me say, once for all, that *shame unutterable* attached itself to her birth. Her father placed her, if I mistake not, in a convent, and there

she received education of a high order till she was fifteen years old. Then he took her, as an adopted child, to his ancestral home; and all the pleasures wealth could afford glittered before the eyes of the young girl just at an age when pleasure is most fascinating. But, unfortunately, she bore upon her face too plainly the secret of her parentage; the servants whispered and laughed, and this coming to the father's ears, her removal was considered necessary. The young creature found her prospects suddenly blighted; for with the intention, apparently, of wholly altering his plans respecting her, the father apprenticed her, for four years, to a dressmaker. What wonder that Annette took reluctantly to the needle, and that her new mistress soon discovered her total inadaptability for the business. However, an arrangement was entered into for her to remain, and she made herself, for some time, useful in household work.

A respectable young man, about entering into business as a stationer, offered her marriage. He was accepted, and there seemed a fair probability that Annette would enter upon a position in which she would secure both protection and comfort. Once more disappointment crossed the young girl's path: her lover's affection cooled, and, casting her off, he married another woman.

To Annette Myers the loss was not only that of a lover and husband: to her it meant the withdrawal of the opportunity of wiping out by honourable marriage the recollection of her disgraceful birth. She sought refuge from her trouble in employment, and, with some little instruction from the dressmaker, undertook a situation as lady's maid, subsequently exchanging it for the humbler one of housemaid.

It was whilst thus employed she became acquainted with a fine, handsome soldier in the Guards, named Henry Ducker. This man professed to belong to a good family, and, having learnt the secret of Myers's history, won over her affections by the sympathy he exhibited in her troubles. She fell a victim to his designs, and then the scoundrel inflicted upon her what I can only describe as the utmost possible degradation to which a villain can subject a woman. At length, as a sequence to his own course of wickedness, he made her a proposal so infamous that her spirit was roused in her own defence, and she took vengeance on her betrayer by shooting him dead when she met him in the park.

As the *Times* well observed, "Had she been a man, she would have demanded the meeting, and shot her deceiver;" and if the result of

Lieut.-Col. Monro's trial in 1846, for committing murder in a duel, was followed only by twelve months' imprisonment in Newgate, it is hard to discern how with justice a sterner measure of punishment could be allotted to Annette Myers. As her trial approached, the most intense interest prevailed on her behalf; but no one appeared to undertake her defence.

At that time Mr. George Thompson, M.P. for the Tower Hamlets, resided in Sloane Street. His almost romantic career in connection with the abolition of Negro slavery; his great popularity with the working classes, whose champion he had been, as one of the foremost orators of the free-trade agitation; and, above all, a most benevolent spirit, entailed upon Mr. Thompson an almost unceasing succession of supplicants for every kind of service which it was supposed he might be able and willing to render.

One Sunday morning a respectable man called and pressed for an interview. Mr. Thompson had found it necessary to deny himself on that day to all strangers, as the only means by which he could secure a short period of rest. But on this occasion his visitor was not to be denied, and only left at last on the promise of an appointment for the same evening. When he came the second time, he proved to be the husband of the dress-

maker to whom Annette Myers had been apprenticed, and revealed to his astonished listener the whole story of her birth and past history. Whether the father of the girl had been formally solicited or not to provide means for her defence I cannot tell; but it was certain that he had made no sign, and, to all appearance, had resolved to leave his wretched child to her fate. Mr. Thompson was asked to make the necessary appeal, and he accepted the office. It was a painful and unpleasant task thus to obtrude himself into the most secret confidence of a person of rank and a total stranger. But the man whose flashing eye and ringing voice had, on a hundred platforms, cowed the minions of the slave-holder, or awed the champions of monopoly into silence—the man who had defied oppression on its own soil, and had counted not his life dear if human rights were to be vindicated, or mercy's cause to be upheld—he was not one on whose ear the "sighing of the captive" could fall unheeded.

The next morning found him at the door of the town residence of Annette Myers's father. It was a handsome house in one of the most aristocratic squares, and exhibited signs of the wealth and opulence of its master. In a splendid drawing-room, furnished with all the taste

and luxury wealth can command, the visitor waited for the owner. He entered, a fine, portly man, bearing on his handsome countenance no traces of fear, or guilt, or shame, no thought of that "skeleton in the cupboard" that was in a moment to be stalked before his eyes. "*You are the father of Annette Myers!*" uttered slowly, calmly, but with determination, as the speaker looked him full in the face, struck home as though a dagger had pierced his heart. Pale, and sick, and faint, he stood, though it seemed as he would have fallen—a poor cowed, trembling culprit, waiting his sentence. But his questioner could feel pity, and had no heart to wound more deeply. Firmly but gently he told him that his secret was known: that if he refused the appeal for aid on behalf of his own daughter, his shame and disgrace should be proclaimed far and wide; but that, if he performed his duty as a parent, and furnished the necessary funds for the poor girl's defence, none should know the name of Annette Myers's father. The latter alternative was gladly accepted, and I know the promise of secrecy has been faithfully kept. The trial necessarily resulted in a verdict of guilty; but this was accompanied with a strong recommendation to mercy, on account of the great provocation the

prisoner had endured. The Lord Chief Baron, in passing sentence, burst into tears, and all present were moved with pity.

From one end of England to the other, the demand for mercy came; men of all opinions, women of all ranks, joined in the appeal. Memorials rapidly flowed in, and various meetings were held to allow the public mind an opportunity of expressing itself. The jury specially addressed the judge; and the enthusiasm of the people culminated in a great demonstration at the London Tavern. Mr. Bright, M.P., presided, and, in a powerful speech, advocated the claim of Myers to a respite, and explained the general principles on which the opposition to capital punishment was based. He was followed by the Rev. Dr. Mortimer, Head Master of the City of London Schools, by Mr. Gilpin, to whose energy the arrangements for the meeting were mainly due, and who aroused the assembly to a state of intense excitement by his heart-stirring appeal; by the Rev. Thomas Binney, whose advocacy was strengthened by the fact that he held opinions generally opposed to the abolition of capital punishment; and lastly by Mr. Thompson, whose powers, as perhaps the first *platform* orator of his day, were developed to their highest point by the incidents surround-

ing the event which had occasioned that magnificent gathering. In three days Annette Myers was respited "during pleasure." Her sentence was commuted to transportation; and I am told in the colony to which she was sent she married, and led a virtuous and honourable life.

The disposition of the Government, with respect to women respited upon the ground of pregnancy, was tested in the succeeding year, when circumstances occurred which excited an interest hardly inferior to that exhibited on behalf of Annette Myers. The reader will not have forgotten how the intelligent humanity of Mr. Sydney Taylor saved the law from a scandalous miscarriage upon the trial and conviction of Mary Wright at Norwich, in 1833. The absurd custom of impannelling a jury of matrons, captured at haphazard by the officers of the court, and leaving them to decide a question on which depends the life of a human being, received a further illustration in 1847, when a woman named Mary Ann Hunt was convicted of murder at the Central Criminal Court. The jury of matrons declared that she was not pregnant; whilst awaiting execution, however, medical evidence proved the contrary, and Hunt was reprieved.

In 1849 a crime of great atrocity was per-

petrated by a woman residing in Somersetshire, named Charlotte Harris. The name of her first husband, for whose murder she was convicted, was Henry Marchant. They had been married seven years, had two children, and lived comfortably on Marchant's wages and the money earned by his wife, who sold oranges in Bath market. The woman, however, was not satisfied with her lot, and formed an acquaintance with a man, seventy years of age—she being thirty-two—named Harris. The old reprobate having made overtures to Marchant's wife, and represented himself to be in easy circumstances, the woman resolved to rid herself of Marchant, in order to marry Harris.

On the night of the 31st of March, Marchant, upon returning home after spending the evening with his friends, partook of some tea. He was seized with sickness, and, after enduring great sufferings, died on the 7th of April. Although apparently tending him through his illness with care and affection, the woman had, during its continuance, spent several hours in Harris's company, had gone over a house they were to occupy; and, on the very day Marchant was buried, she obtained a license, and married Harris.

These circumstances naturally attracted atten-

tion. She was arrested and tried for murder at the Summer Assizes, the medical evidence removing all possible doubt as to the cause of her former husband's death. She was found to be pregnant, and respited accordingly; but after the birth of the child, a disposition was manifested by the Executive to carry out the sentence. Again public opinion rose against the law. It was essentially a woman's question, and the humanity of England's daughters revolted at the barbarity of detaining a miserable creature for months in suspense as to her fate, and then, after she had given birth to her infant, tearing it from her arms, and strangling her like a dog. Some 40,000 women appealed by memorial to their Queen. Harris was reprieved; and it has since become an established principle that no woman sentenced under such circumstances shall ever be hanged.

In one of the numerous references to the subject of capital punishment, which took place in Parliament last year, the Home Secretary assumed credit for this humane practice. It may be well, however, to observe that in December, 1863, a very near approach to a violation of the well-understood rule was deliberately sanctioned by the Home Office. In June of that year Alice Holt was committed for trial for

poisoning her mother at Stockport. The case was a very atrocious one, but certainly not more so than that of Harris. The accused was pregnant. In consequence of this, her trial was postponed from the Summer to the Winter Assizes: meantime her confinement took place. Had she been tried in the summer, her pregnancy would have been allowed to act as a bar to execution; but by the postponement that difficulty was overcome, and Alice Holt was hanged.

The scene upon the scaffold was more than usually distressing. The wretched woman, weak and faint, was kept several minutes waiting for the drop to fall, owing to some difficulty with the bolt. Meantime her cries to the hangman to "make haste," excited the pity and sympathy of the crowd who had come to witness the revolting spectacle.

The execution of a woman must needs be a shocking sight. Shame that the sun should ever look down on so horrible a deed. Let us go back to the year in which Charlotte Harris was reprieved, and glance at the terrible scene enacted in the city of Bristol, at the execution of Sarah Harriet Thomas. Her offence was of a peculiarly brutal character. She had murdered her mistress, an old lady

named Jeffries, prompted, in the first instance, by savage fury, induced by ill-treatment. Subsequently to the murder, she appropriated her mistress's more valuable effects, and, with them, decamped to her own home. The opinion was very general that Thomas's extremely defective intellect had incapacitated her from fully appreciating the nature and enormity of the offence. But although several thousands of the women of Bristol, many of the clergy, the religious bodies, and a large number of the inhabitants, signed memorials for a commutation of the sentence, their prayer was refused, and the law was left to take its course.

As an instance of the wretchedly low character of the poor creature's family, it was said that some of them, after her trial, accosted their neighbours with, "Well, are you going to see our Sall hanged?" And the mother actually called at the gaol the day before the execution, to obtain a shawl belonging to the culprit, "because Sally wouldn't want it any longer."

When the hour arrived for her to die, the governor of the gaol entered the condemned cell to lead her to the scaffold. She refused to move: expostulations and threats to employ force were fruitless. At length the governor ordered half-a-dozen turnkeys to bring her out.

A terrible scene ensued. Against six stalwart men the hapless prisoner struggled in vain; but her shrieks rang through the prison—"I'll not go!" "I'll not go!" "I'll not go!" and she was dragged into the press-yard. There the hangman pinioned her, and, for a while, she became more calm. A few soothing words from the governor induced her to walk quietly to the foot of the ladder leading to the drop. Then again she resisted. Two turnkeys carried her up the ladder, her appalling screams falling on the ears of the people outside. On the drop she clung frantically to the hangman. "Oh, don't hurt me! don't hurt me!" she cried, seizing him with her pinioned hands. The executioner was moved, for, though a hangman, he was a father, and, as he said, "the thought of his own girls came over him." He tried to comfort the terrified creature—"No, no, my poor girl, I'll not hurt you." Then he rapidly adjusted the rope, bade her to cry "Lord have mercy on me!" and, as she uttered the name of the All-merciful One, cut her off for ever from the mercy of earth.

An equally horrifying scene, though arising from a different cause, occurred at Newgate when William Bousfield was hanged, on the 31st March, 1856. Bousfield had murdered his wife

and three children. The only assignable motive for the act was unfounded jealousy. The wretched convict was a man of the lowest possible moral condition, and his conduct, while awaiting his sentence, was sullen and morose in the extreme. When the chaplain alluded to his crime, he would say, "Pray, don't talk about it, it is a horrid dream;" and he persistently refused all religious consolation.

On the Saturday preceding the day (Monday) of execution, whilst sitting with a turnkey in the condemned cell, Bousfield suddenly darted forward, and placed his head on the fire, his chin resting on the top bar. He was dragged off, but frightfully disfigured. During that night and the whole of Sunday, means were applied to reduce the inflammation, and make him less hideous in appearance; but he took no notice, and refused all nourishment except a little milk and wine.

On Monday morning he was apparently in a most exhausted state. His face was bound in cloths, and he presented a spectacle most fearful to behold, as he was seated, or rather, sustained in a chair by the attendants. No inducement could make him stand; and, two men supporting his body, and two his legs, he was borne to the foot of the scaffold. Here he was

again seated in a chair, and thus carried to the drop, where he sat crouching, a pitiable exhibition of the most abject terror and weakness. Some person had frightened Calcraft by sending him a letter threatening to shoot him when he appeared to perform his task. Having hastily adjusted the cap and rope, he ran down the steps, drew the bolt, and disappeared. For a second or two the body hung motionless; then, with a strength that astonished the attendant officials, Bousfield slowly drew himself up, and rested with his feet on the right side of the drop. One of the turnkeys rushed forward, and pushed him off. Again the wretched creature succeeded in obtaining foothold, but, this time, on the left side of the drop. The sheriffs, horrified, sought for Calcraft, and with difficulty the chaplain (Mr. Davis) forced him to return. He thrust the miserable wretch off once more. For a fourth time Bousfield raised himself and obtained foothold. Again he was thrust off, and Calcraft, throwing himself upon the suspended body, by main force strangled him at last.

Meantime the crowd were greatly excited. Their shouts and execrations rose with a fearful clamour around the gallows, and cries of "Shame!" "Shame!" "Murder!" "Murder!" greeted the ears of the representative of British

justice. No wonder there are found men who urge that these scenes should be hid by the prison walls from the public gaze. The institution could not stand many more such shocks to its reputation as that which the incidents of Bousfield's execution occasioned.

In an admirable paper on Capital Punishment, from the pen of Mr. Thomas Beggs, in the *Social Science Review*, I find reference made to a terrible catastrophe at the execution of William Saville at Nottingham, in the year 1844.

The place of execution fronting the gaol was a street called High Pavement, not more than twenty to thirty feet wide. The crowd was unprecedentedly large, and the excited thousands stood jammed together till the drop fell. At that moment, some ruffians, supposed to be pickpockets intent on a raid, created a panic. Instantly the whole living mass was in motion and surging like the sea waves down the narrow street. Presently some one fell, others succeeded; but still the mad rush continued, and a pile of bodies accumulated into a sort of barrier which for a moment checked the crowd. But just at this point was a flight of steps leading to a lower thoroughfare. Down there the people rolled, one upon the other; stout men

crushed to death with the feeblest, for none could help them. At length the mayor, who displayed great presence of mind, and some other persons, succeeded in controlling the mob and extricating the dead and dying. Not less than fifteen or sixteen persons lost their lives, whilst others received serious and irreparable injury.

The late shocking occurrence at Durham, through the breaking of the rope employed to strangle Atkinson, is a fitting counterpart to some of the preceding cases. A similar incident attended an execution in Ceylon some years ago. I relate it chiefly as exemplifying the extraordinary partiality for capital punishment in preference to imprisonment, which my informant, Dr. Elliott of Colombo, stated was characteristic of the Cingalese temperament.

The man was a Mahommedan, and the event occurred in Kandy. When he was turned off, the rope broke. A second attempt was made, and again the same accident interfered with the execution. A gentleman present thinking that, after being twice hung, the man deserved a reprieve, rode off in haste to the governor (Lord Torrington), who was not far distant, and obtained an order commuting the penalty to im-

prisonment for life. The man was removed to Colombo to undergo the sentence. He at once commenced starving himself; but, finding this too slow a process, he put an end to his existence by hanging himself in the prison.

Such cases may have their parallels among European criminals. On the trial of Fleming Coward, for an attempt to murder, the following dialogue took place between the prisoner and his judge (Platt):—

Judge—"Let sentence of death be recorded."

The prisoner essays some exculpatory observations.

Judge—"One can pity your feelings, but one can't respect them, when you raised your hand to slay your brother."

Prisoner—"I am sure the injury I sustained——"

Judge, interrupting—"You'll not be executed, you'll not be hanged."

Prisoner—"I should much prefer that, my lord, to a long sentence."

Possibly Baron Martin may have had a similar opinion of the relative severity of the two modes of punishment in his mind when, upon a similar occasion, he remarked to the criminal convicted of a most atrocious attempt to murder: "I shall

pass upon you a sentence I have never passed before, and *which, in my opinion, will be a greater punishment than the momentary pain of sudden death;* for you will live a slave labouring for others, and have no reward for your labour. That sentence is, that you be kept in penal servitude for life."

CHAPTER IX.

Insanity—George Combe—Howieson the Monomaniac—Witches—Solicitor-General Cockburn—The Madman Hanged—Isaac Pinnock—Maria Clarke—Luigi Buranelli—Romantic Career—First Symptoms of Insanity—Rebutting Testimony—A Fine Distinction Unfair Rejection of Evidence—Professional Honour—Doctor's Memorial—Execution.

PERHAPS the most difficult class of cases coming under our notice were those which involved the question of the prisoner's sanity. It is now generally admitted that the state of the law on this point is far from satisfactory. The total want of harmony between the medical and legal theory as to what does or does not constitute insanity, and the constant clashing between the moral sense of the community, and the decisions of the lawyers, will be illustrated in the following pages. But I may remind the reader that, but for the capital penalty, the difficulty need hardly arise. If a person con-

victed of a secondary offence were sentenced to imprisonment at Pentonville, instead of being sent as a lunatic to Broadmoor, no substantial injustice would be done, because at the former he would be carefully watched and guarded, no cruel or vindictive treatment would leave an irremediable wound, and if his mental condition required it, his transfer to the prison hospital or the asylum would be easily effected. The ability to qualify or regulate the punishment according to the apparent guilt or moral responsibility of the prisoner is thus readily attainable. The law, it must be remembered, throws upon the accused the onus of proving his insanity. If he fails he is not entitled to the benefit of a doubt, as though the question were of guilty or not guilty. Whatever doubts may be suggested, they avail nothing unless it can be proved absolutely and conclusively, that when he committed the crime alleged against him, the accused knew not right from wrong; the term *wrong* being here construed to mean an *unlawful* act. Failing this, he is liable, however wild his delusion, weak his intellect, or defective his moral sense, to receive just the same penalty for murder as the most deliberate assassin that ever disgraced humanity with his crimes.

In the year 1853 I was at Edinburgh, and, in

the course of an interesting conversation with the late Mr. George Combe, received from him the following account of an occurrence in which he was personally much interested:—

Some twenty-three years previously a strange being might have been seen wandering from village to village in the neighbourhood of Edinburgh. He subsisted by begging, was noted for his religious eccentricities, wore an antique dress, allowed his beard to grow to a prodigious length, and delighted to attend the services of all the dissenting communities in succession. His chief peculiarity or monomania was a dread of the influence of witches. He had an especial horror of old women who might possess supernatural powers, covering his body with marks, as spells against their influence, and wearing a Bible in his bosom as a further protection. In the early part of the last century, executions for witchcraft had not ceased in England; and in Scotland the law favoured that superstition to a much later date. At a comparatively recent period the General Assembly had even ascribed to the guilty relaxation of the laws against that imaginary crime the judgments with which Heaven had visited the country. If, therefore, Howieson somewhat irregularly enforced the supposed commandment of the Deity that witches

should be put to death, he had no bad precedent for his crusade against the old women.

One of these unhappy objects of his too zealous attentions resided at the village of Cramond, a few miles from Edinburgh. One day, Howieson entered her cottage, cleft the poor old creature's skull with a spade, leaving her dead, and at once decamped. He was soon captured and tried before the High Court at Edinburgh, the late Lord Cockburn, then Solicitor-General, prosecuting on behalf of the crown. Mr. Combe, commiserating the poverty and friendlessness of the accused, provided the means required for his defence. He also privately urged on the Solicitor-General his opinion that the prisoner was insane. But here the dogma that insanity means ignorance of legal wrong came in force. The Solicitor-General resisted the appeal on the ground that Howieson exhibited a knowledge of having done wrong—that is, an unlawful act—by flying from justice after he had committed the crime. Very possibly he did think he was obeying God's command, but he knew he was breaking man's law: therefore he was responsible, and must be judged accordingly.

He was found guilty, and sentenced to death. A memorial was forwarded to the Home Office, but it was referred to the Scotch authorities, and

the Solicitor-General again interposing his adverse opinion, the prayer for mercy was denied. On the day previous to the execution Mr. Combe made a last attempt to change Mr. Cockburn's resolution. He failed, the Solicitor-General refusing to discuss the matter further, and remarking that no means then existed for communicating with London in time, even were he inclined to interfere, which he was not. At about four o'clock on the following morning the prisoner expressed a wish to make confession of the crime for which he was convicted, as well as others he alleged he had committed. The magistrates being summoned, Howieson recited a terrible narrative of no less than fourteen murders. The astonished functionaries then bethought them of sending for the head of the police to ascertain what he knew of these awful events. He came, and at once observed that some of those very persons named in Howieson's list of victims were alive, to his knowledge, at that hour. At that moment, attention was drawn to the condemned man. His eyes rolled wildly, his body trembled, his limbs moved restlessly. He was mad enough then; but it was too late to appeal for a respite, and at nine o'clock he was dragged from his cell and hanged, a raving maniac. "What think you about poor

Howieson now?" said Mr. Combe, when he next met the Solicitor-General. "That the sooner we forget all about him the better," was the reply of the disconcerted official.

A miserable case, arising not out of a morbid delusion such as Howieson's, but from a wretchedly defective intellect, scarcely one degree removed from idiotcy, came under my own notice. At Rowell, in Northamptonshire, resided an old farmer named Benjamin Cheney. He had detected a boy named Isaac Pinnock in the commission of some offence, for which he threatened to give him into custody. Pinnock determined to rid himself of the danger by killing Cheney on his way to market, at the neighbouring town, which he reached by a field footpath. Yet so stupidly lethargic was the would-be murderer, that he fell sound asleep whilst waiting for his victim, and for one week the old man escaped. The next week, however, Pinnock managed to keep awake, and going treacherously behind the farmer, cleft his skull with an axe. Being poor and unpitied, his friends had no means of preparing any defence, the depositions only being handed to counsel by the court after the trial had commenced. The defending barrister could not, therefore, attempt to set up a plea of in-

sanity, having no evidence but such as he might be able to extract on cross-examination from the prosecutor's witnesses, to support it. He confined himself, therefore, to criticizing the general proof of guilt, and, as might be expected, failed.

After Pinnock's condemnation, Dr. Pritchard of Northampton, who had listened to the trial, expressed a very decided opinion that the convict was insane. He most humanely wrote to the medical inspector of the district, who was commissioned to examine the prisoner and report. Meantime, various memorials were forwarded, all based upon the same opinion as Dr. Pritchard's. It appeared that Pinnock had always been regarded as "a fool" (idiot); that he was notoriously guilty of frequent thefts and many more offensive crimes, yet these were overlooked as incidental to his weak intellect. He was found to be destructive and mischievous in his propensities, very dirty in his habits, and insensible to shame. His sentence was commuted a day or two before the time fixed for the execution. It was told me that some such conversation as the following took place when his father came to pay his last visit to his condemned son :—

Father—"Well, Isaac, dost think thee can go through with it?"

Prisoner—"Ez, father, think I can."

Father (to Governor of prison).—"Well guv'ner, I hope you'll let's have his body."

The coarseness of the father, however, was exceeded by the cool calculation of a Rowell farmer, who refused to sign a memorial for the prisoner's life to be spared, until positively assured "*he'd never come on the Rates.*"

In April, 1851, I was summoned to Ipswich by correspondents in that town, who were much interested on behalf of a young woman named Maria Clarke, sentenced to death at the Suffolk Spring Assizes, for murdering her infant, by the horrible process of burying it alive. The prisoner was herself an illegitimate child, her mother who had married when Maria was about four years old, had died whilst she was still young. The prisoner and all her connexions were exceedingly poor, and unable to retain legal asssistance. Just before the trial, a very small sum was subscribed to retain counsel, but not sufficient to enable her solicitor to visit the locality in which she had lived, or to institute any enquiries. Consequently, Mr. Dasent, who conducted the defence, was wholly unsupplied with that evidence which might otherwise have obtained for his client an acquittal on the ground of insanity. Another circumstance operated to prevent persons from voluntarily

rendering evidence upon the trial, which, when publicity was given to the case, was readily offered—that was, that the prisoner was better known to many of her acquaintances as "Maria Shulver," and they did not all at once recognize "*Maria Clarke*" as the same girl.

She had—it appeared in evidence—gone into the Deepwade Union Workhouse, in the month of November, 1850, and shortly before Christmas the child was born. She did well for some time, but at length another young woman's death in the house appeared greatly to excite her. Puerperal fever set in, she became lightheaded, and required bleeding before the disturbance of the brain was allayed. During the time of her stay in the Workhouse, her conduct to the child was kind and affectionate, and on the 17th of March she left, carrying the infant with her. Instead, however, of seeking shelter at once under her step-parents' roof, she wandered about the whole night in a pouring rain. On the following day she was seen carrying a spade or mattock that some workmen had left by the road-side on one arm, and the child with the other in the direction of a field.

The same evening she returned to her stepmother's home, and, on being asked for the child, first said it had been sent "to be brought up as

a gentleman." The step-mother, however, suspecting something wrong, on the following evening again questioned her: "Had she murdered the child?" She replied, "No; *she had not murdered it, she had buried it alive.*" Having indicated where it was to be found, she suddenly rushed out of the house towards a pond, with the evident intention of committing suicide; but was followed and restrained by her step-mother. She then pointed out the place where the child was buried, and shrieked wildly when its little body was discovered.

Whilst in custody, she thus described her feelings at the time of committing the murder: "I did not hurt the child," she said; "I kissed it and laid it in a hole, and went away and sat on a bank near a gate, and there I sat for a quarter of an hour, or twenty minutes. *But all at once something caught me up and told me I must be going, and then I went home in such light spirits as though I could fly.*" She added:—I wanted them to let me go and fetch it; and if they had, I should have fetched my child and jumped into the pond and drowned myself." This, be it remarked, was the story told to another woman by an ignorant country girl, who could not have had the remotest idea that the effect of her statement might be to create an impression of her insanity.

It was evident that the sight of the old mattock, left by the workman at the road-side, had suggested the mode of getting rid of the child; and it may be assumed that, up to that moment, she had had no thought of destroying it; for, on her way from Deepwade, she could have drowned or exposed it with far less trouble and risk.

Chief Justice Jervis was the judge, and, true to legal rule, he left the jury no room to find the prisoner insane; for, granting all that had been elicited in behalf of such a plea, her denial to her stepmother in the first instance implied a consciousness of guilt. So, as she knew she had done wrong, she was answerable for doing wrong—ergo, was guilty of murder—and the invariable punishment for murder was death.

But no sooner was the trial over than evidence of the prisoner's insanity was forthcoming on all sides. The statements we were enabled, after our investigation, to submit to Sir George Grey, comprised those of persons of unimpeachable character, who had known Maria Clarke at various periods during her whole life. The clergyman of her native parish testified that she was considered a "fool" or imbecile. Several of her employers bore testimony that she was liable to frequent fits of mental aberration,

during which she appeared incompetent to control her actions; that at times she would abstain from solid food, and cry for hours without apparent cause; that on one occasion she was discovered by a fellow-servant under circumstances that left no doubt she intended to commit suicide, and was always watched carefully afterwards; finally, that her mother had been several times insane, and when so affected would destroy everything within her reach, having been very violent within a day or two of her death, when she attempted to injure those about her; whilst an aunt, still living, was also subject to fits of insanity, requiring, at those times, several men to hold her.

It was impossible for the Home Secretary to allow the law to be carried out in the face of such facts as these. Common sense and humanity forbade it; but the stern old lawyer, who had decided that Clarke could not be mad because she knew the consequences of her act, was, I was afterwards told, the reverse of satisfied with her reprieve, and had been heard to remark, "They ought to have hanged that girl."

The case I have next to narrate has always appeared to me to demonstrate most forcibly the injustice of Capital Punishment, when inflicted on persons, respecting whose sanity

there may be grave doubts, even if their insanity is not clearly demonstrated. Again, let me remind the reader, that the question is not whether the insane murderer shall be found guilty and punished, or set at large once more to repeat his deed of violence and blood. All that a different decision would have involved—all that the Home Secretary was asked to do in the present instance—was to substitute one form of punishment for another; imprisonment for life for the penalty of death. In the story of the life, crime, and execution of Luigi Buranelli, I read one of the most convincing proofs of the incompetence of the tribunal that condemned, and the department that sanctioned, the execution of the luckless Italian, to administer with equity, a law so hard to reconcile with the first principles of justice. Faults there were in the conduct of the prosecution; blunders there were upon the trial; wrong was the decision of the Secretary of State; but the real cause of the whole mischief was, after all, in a law that to an offence presenting such varied characteristics as the crime of murder, perpetrated under circumstances so widely dissimilar, by persons differing altogether in their moral perceptions and responsibility, applies one equal, unvarying, and inexorable punishment. I shall ask the

reader to accompany me through a brief review of Buranelli's career, in order to enable him the more readily to understand the grounds upon which, in relation to his sad case, my opinions are based.

Luigi Buranelli was a native of Ancona. He was a tailor by trade, but, having an inclination for a military career, he entered the army of the Pope, in which he served as a petty officer of dragoons. Whilst in this employment, he became acquainted with an English gentleman named Stewart Drummond, and, quitting the army, entered Mr. Drummond's service as a valet. That gentleman embraced the Roman Catholic faith and became a monk, being known as the Abbé Stewart. Buranelli was one day absent on a visit to his mother, by leave of his master, the Abbé, when the latter whilst bathing was treacherously assassinated.

On Luigi's return, he found his master dying. The latter, however, had strength to write to his brother, Mr. George Drummond, "Dearest brother, I recommend my most faithful valet, Luigi Buranelli ——."

He did not live to finish the letter; but the brother acted on the understood wishes of the dying Abbé, and until his death, which occurred

in 1847, he made Luigi Buranelli a half-yearly allowance of £10.

At Mr. Drummond's death, the executors being without legal authority to continue the pension, the payments ceased. Buranelli's efforts in Italy to obtain it being ineffectual, he decided on coming to England, receiving from the British Consul for the Roman States a certificate attesting his high character and faithful services to his deceased master.

Previous to this he had married a young Italian named Rosa Colucci, for whom he always manifested the most ardent affection. The money difficulty being arranged, Rosa soon joined her husband in London; and in the house where they lodged they formed the acquaintance of two persons living together as husband and wife, under the name of Lambert, but whose real names were Latham and Jeans. In a year or two afterwards Rosa died, and from that time a marked change came over the character of her husband. At this time Luigi was in the service of Mr. Crawford, of Grafton-street. His mild and amiable character excited the sympathies of his employer and fellow-servants for his trouble, their attention being specially attracted by his inconsolable grief, and some eccentricities in connection with his recent

bereavement. In his next situation he became acquainted with a young woman named Martha Ingram. They were married and went to live at Penshurst, where the wife's friends resided. Here Buranelli worked at his old trade of tailoring; but again death destroyed his domestic happiness. His second wife died in the spring of 1854.

His morbid depression and melancholy now became more than ever painfully apparent. He continually talked of suicide and death, and so alarmed his friends that they insisted on a lad being always present in his room.

He wanted the woman of the house to buy him laudanum, at the same time conceiving an intense dislike for his medical attendant, Dr. Baller, suspecting that gentleman of an intent to poison him, and applying an absurd test with a halfpenny to discover the supposed poison in his medicine. He had required some slight surgical operation, and under this became very irritable and impatient, tearing away the bandages and lint, and otherwise acting in a manner most violent and extraordinary. On the 17th of August, 1854, he was admitted into the Middlesex Hospital, and, although every effort was made to assure him that no need for surgical care existed, he persisted in

the most absurd assertions as to his supposed complaint and its accompanying infirmity. At the end of three weeks he was discharged, but still allowed by Mr. Mitchell Henry, the assistant surgeon, to attend as an out-patient and did so up to the very day of the terrible occurrence which placed him at the bar of the Central Criminal Court on a charge of wilful murder. On leaving the hospital he went to live once more with the Lamberts. To the credit of these persons, and as a proof that he could have had no substantial ground of complaint against them, it should be mentioned that they were most kindly attentive to him whilst in the hospital, visiting him frequently, and bringing him tea and other luxuries not provided by the hospital dietary. He would have returned to Penshurst, but was persuaded by Lambert (*alias* Latham) to remain and occupy a room at a trifling rental in his house. In the same house lodged a Mrs. Williamson, a married woman, but separated from her husband. This person was associated with the Lamberts in business. Between her and Buranelli arose an intimacy, the only stain, up to that period, upon an otherwise blameless life.

About Christmas-day Mrs. Williamson, who appears to have regretted the moral delinquency

of which they had been guilty, requested Lambert to give Buranelli notice to leave the house. Lambert complied with her request, and, after some little expostulation on Buranelli's part, they arranged their money matters, and parted apparently good friends. Buranelli lodged at a coffee-house for several nights, and sent letters to Mrs. Williamson, who, however, did not answer them. On the second of January, five days before the murder, Buranelli took shelter from the rain in a shop in Tottenham Court Road. There he bought a second-hand umbrella, and, noticing a pair of pistols also in the shop, purchased them too, with, it is supposed, the intention of committing suicide. A few days afterwards he purchased bullets, and also a knife.

On the morning of Sunday, 7th January, Buranelli presented himself at Latham's house. He rang the bell, and, the door being opened by the servant, he proceeded at once to the bedroom on the ground floor, occupied by Latham and Jeans, shot the former dead as he slept with one pistol, and lodged the contents of the other in the body of the woman, though without fatal effect. He then rushed upstairs, and endeavoured to obtain an entrance into Mrs. Williamson's chamber; but, the door being fastened inside, he

darted into another room, and, reloading one of the pistols, shot himself, just as the police, summoned by the report of firearms, entered the house. His wound, though a frightful one, was not mortal, and he was once more lodged under Mr. Henry's care, as a patient in the Middlesex Hospital, where he continued for about two months. He was then removed, his wound being healed, to Newgate, and brought up for trial at the April Sessions of the Central Criminal Court, before Mr. (now Chief) Justice Erle.

The case for the prosecution was simple enough; for about the main facts there could be no dispute. Mrs. Jeans deposed to the friendship existing between the prisoner and Latham, as well as to the total absence of any adequate motive for the murder. Mrs. Williamson admitted that, when at the opera, Buranelli had been strangely excited, fancying himself one of the characters in the piece; and she also deposed to other morbid symptoms having developed themselves during their frequent conversations together. The other evidence was of a formal character; and it remained for Buranelli's counsel to answer the charge by the plea of insanity.

The reader, after perusing the foregoing narrative, will not suppose this to have been a very

difficult task. We shall see! His former master, Mr. Crauford—Elizabeth Davis, a fellow-servant of the prisoner's at Mr. Crauford's—the master tailor at Penshurst, for whom he had worked, as well as other persons from that place, all deposed to the peculiarities, change of conduct, and strange fancies or delusions, which have been already detailed. After them, maintaining a consecutive narrative of the course of the prisoner's life, came the head nurse of the ward in which he was first treated at the Middlesex Hospital. She deposed to his strangeness of manner—his declaration that Dr. Baller had killed him—that his wife's friends in the country had done him out of a great deal of property (also untrue); and that, whilst he appeared extremely grateful for all that was done for him, he was so odd that she (witness) *would not have been at all surprised if he had killed himself.* An assistant-nurse gave similar evidence. She said—and it will be remembered that hospital nurses necessarily have a very large experience to guide their judgment—"that he did not act like a man in his senses, but seemed bewildered and unconscious of any thing." In answer to her enquiry, "Louis, what ails you?" he would say, "My head is so bad, nurse." This witness also deposed to the delusion respecting the supposed

malady and its attendant annoyance, and to the fact that Buranelli would lie for hours crying, and was so depressed that "*had he destroyed himself she would not have been at all surprised.*" The woman at whose coffee-house he had lodged from the 22nd of December to the 7th of January was also called. She stated "that during the whole time he was in her house he appeared quite unconscious of anything that was passing, nor did he seem to understand the meaning of any conversation that was addressed to him. His conduct was both melancholy and contradictory. He would have no fire, although the weather was intensely cold; would lie outside his bed with his window open (he, too, being a native of a warm climate); and whenever the weather was mentioned, would insist upon its being very warm. He used frequently to exclaim, "Oh my head, my head!" putting up his hand as though it gave him pain.

Dr. Baller was the first medical witness examined on the prisoner's behalf. The purport of his evidence was confirmatory of that of the others as to his mental excitement when under treatment at Penshurst, the insignificant character of his physical ailment, and the trifling operation performed in consequence. Mr. Henry gave similar testimony with regard to the prisoner's conduct in the hospital; and Dr.

Conolly, who had heard the whole of the evidence given upon the trial, pronounced his decided opinion that Buranelli was insane at the time he committed the murder. But the prosecuting counsel, Mr. Bodkin, Q.C., was not satisfied to allow this testimony to go unchallenged to the jury. I will venture to say that, assuming the facts deposed to, to be proofs of insanity, it would be impossible in nine cases out of ten to present so perfectly unbroken a chain of testimony, covering so long a period, as was here produced. But theories were to overturn the edifice thus founded on facts. Mr. M'Murdo, the surgeon of Newgate, had of course known nothing of the prisoner till he came to Newgate, a few weeks before the trial, after a long period of careful nursing and kind attention had been bestowed upon the prisoner in the Middlesex Hospital. He asserted, honestly, no doubt, that he saw no symptoms of mental aberration in Buranelli. He would not hazard any speculations as to what might have been the past condition of the prisoner, nor would he deny that loss of blood might in some cases be beneficial to a person afflicted with insanity, although he alleged it was seldom resorted to. The remaining rebutting evidence was supplied by Dr. Sutherland and Dr. Mayo. I need not attempt a critical analysis of the statements and

theories of these gentlemen. They could of course *theorize* only as to the condition of the prisoner when he was first taken into custody; for they had each only seen him once for a short time the day before the trial, or three months after the murder.

Upon these theories the medical press spoke plainly and pointedly enough. Drs. Mayo and Sutherland asserted that Buranelli suffered, not from insane *de*lusions, but from hypochondriacal *il*lusions; the distinction being that the former was found only where no ground whatever existed for the impressions of the patient, whilst the latter had a small basis of fact, and that this was the case with Buranelli. Dr. Sutherland, however, was forced to admit that the difference was only in degree; for that the fancies of the patient might be so palpably absurd as to constitute the *de*lusions of a maniac. Neither of these gentlemen would admit that the evidence adduced upon the trial of Buranelli satisfied them of his insanity.

There was another witness subpœnaed by the prosecution to sustain the opinions of Drs. Mayo and Sutherland. Had he been put into the box, he could have testified to Buranelli's mental condition *both before and after the murder*. Under the impression that Mr. Shaw, the senior surgeon of the Middlesex Hospital, a gentleman

of great experience and high reputation, would give evidence different from that of his junior colleague, Mr. Henry, he had been summoned to attend. Why was he not called? BECAUSE, BY A PRIVATE CONVERSATION WITH MR. SHAW, THE PROSECUTION ASCERTAINED THAT, SPEAKING WITH ALL THE WEIGHT AND AUTHORITY OF HIS HIGH STANDING IN THE PROFESSION, AND FROM A PERSONAL KNOWLEDGE OF THE PRISONER, HE WOULD HAVE DECLARED HIS BELIEF THAT LUIGI BURANELLI, WHEN HE COMMITTED THE MURDER, WAS NOT RESPONSIBLE FOR HIS ACTIONS.

What effect might not this testimony have had upon the court and jury? Although none would dare, who had the opportunity of knowing Mr. Henry's zeal and intelligence in the discharge of his professional duties, to doubt his capacity for forming a sound opinion upon the case under his care, it is not unlikely that, upon a subject the knowledge of which must depend so much upon personal experience as the question of insanity, the jury would have been more likely to be influenced by the judgment of Mr. Shaw than by that of a younger practitioner. But what term should be applied to the conduct of counsel representing the crown, who, in order to gain a verdict against a prisoner thus dismissed their own witness from the court, lest his evidence should favour the accused? Mr.

Bodkin did this; and Sir George Grey, in the House of Commons, sustained his conduct when challenged by Mr. Bright. The suppression of truth may be compatible with the arts of the detective, or the morality of the street constable; but surely a Queen's Counsel, himself a criminal judge, might be above such petty meanness. He had his grip fast enough on the wretched Italian; the boon of life could only have been purchased by a life-long incarceration as a criminal lunatic; but professional honour was, I assume, involved in absolute and entire success, and truth might be sacrificed before the reputation of the advocate.

Buranelli was found guilty, and sentenced to die; but his attorney, Mr. Keighley, and his generous friend, Mr. Mitchell Henry, whose humanity reflected honour on the whole profession, would not allow his life to be sacrificed without an appeal to the mercy of the crown. Mr. Shaw submitted to Sir George Grey a full account of the suppression of his evidence, and an able statement of his opinion upon the case. The following memorial was also forwarded:—

"We, the undersigned physicians and surgeons, having carefully examined the evidence hereunto annexed relative to the case of Luigi Buranelli, now lying in Newgate under sentence of death for murder, do hereby express our

solemn and matured opinion that the prisoner was insane at the time he committed the crime.

"We do further affirm that, had we been consulted on the evidence now disclosed, as to the condition of the prisoner's mind before the act was perpetrated, we should have had no hesitation in subjecting him to treatment for mental disease.

"We, therefore, are confident that, had the prisoner been in a different rank of life, such steps would have been taken respecting him as would, in all probability, have prevented the commission of the murder; and, accordingly, we earnestly pray that the extreme sentence of the law may not be carried into execution in the case of a person whom we believe to have been a lunatic when he perpetrated the act for which his life has been declared forfeited.

(Signed)

John Conolly, M.D., Consulting Physician to the Hanwell Lunatic Asylum.

William Baly, M.D., F.R.S., Physician to the Millbank Prison; Assistant Physician to St. Bartholomew's Hospital, &c.

Forbes Winslow, M.D., D.C.L., &c., &c.

Alexander Shaw, F.R.C.S., Surgeon to the Middlesex Hospital.

Mitchell Henry, F.R.C.S., Assistant Surgeon to the Middlesex Hospital."

Here, then, were the two most eminent practitioners in lunacy in the country, the chief medical officer of a large convict establishment, who would speak with all due official reserve and responsibility, and the head and assistant surgeons of Middlesex Hospital, both able, intelligent men, who had possessed advantages seldom occurring for forming an opinion respecting the mental condition of their patient.

And on the other side, what? The testimony of the gaol surgeon, who had not examined Buranelli with respect to his delusions till the very morning of the trial, three months after the murder, and two gentlemen, whose *theories*, whatever weight they may have had with the jury, were indignantly scouted by their own profession. With the doctor's memorial, formal declarations made before a magistrate were sent in, embodying the whole of the evidence for the defence.

This was on the 23rd of April. On Friday, April 27th, a communication from the Home Secretary was returned to the effect that the law must take its course.

Other means were tried. Mr. Bright, in the House of Commons, made an appeal to Sir George Grey, on behalf of the convict. But the Minister showed no sign of a disposition

to alter his decision. On Saturday, 28th April, Sir James Clark, who took a warm interest in the case, had an interview with Sir George Grey, and urged him not to allow the execution of a criminal of whose insanity such overwhelming evidence existed. One of the Lunacy Commissioners also attempted to influence the Home Secretary to mercy; he too failed. The Judge was appealed to; but he declined to discuss the case, on the ground that he had "no further power in the matter."

So, on the 30th April, the Italian was hanged. Yet, even on the scaffold, he was to be the victim of a fresh mishap. Through the improper adjustment of the rope, his sufferings were prolonged for fully five minutes,—the wretched man was fearfully convulsed — his chest heaved, and it was evident that the struggle was a cruel one. The mob became indignant, and shouted forth execrations against the barbarous spectacle. But death came at last; and the blunderings of lawyers, doctors, ministers of State, and hangman were all at an end for the lunatic Luigi Buranelli.

CHAPTER X.

Thomas Corrigan—Delirium Tremens—Appeal to the Home Office—Memorial—Rt. Hon. Milner Gibson, M.P.—Reprieve—Corrigan a Missionary—Charles Westron.

On Christmas-day, 1855, a young man named Thomas Corrigan and his wife spent the day with their friends, Mr. and Mrs. Burton, who lived in the Minories. The party enjoyed themselves, as persons of their class usually do at that festive season of the year, drinking spirits and playing at cards until a late hour in the evening, when the women went to bed, leaving their husbands and other male companions at their amusement. At nine o'clock the next morning, the prisoner left to attend to his work at the East India Warehouse, in Leadenhall Street.

In the afternoon, he went to the house of a Mrs. Fearon, at Bethnal Green, and there met his wife and two children, finally accompanying

his wife and her friend again to Burton's house, which they reached in a cab late in the afternoon. The prisoner had appeared somewhat irritated on meeting his wife at Fearon's, and rebuked her for neglecting the baby, but recovered his temper ; and all arrived at Burton's apparently on good terms. The prisoner and his wife went into the bedroom to remove their wet clothes, when screams were heard, and, on entering, the company were appalled at the sight of Corrigan holding his wife with one hand and inflicting a series of stabs upon her body with the other. Two of the women, in their efforts to save her, were also slightly wounded ; and then, the paroxysm over, the murderer allowed himself to be led away quietly in custody. The poor woman died almost instantly. No sooner was the act committed than the prisoner exhibited the utmost remorse for his crime.

Upon his trial, witnesses deposed to his uniform gentleness of conduct and his kindness to his wife, though often greatly provoked by her, and at times even irritated by blows. Of his children, too, he was passionately fond.

The marriage of Corrigan and his wife had been an unfortunate one, and probably induced those drinking habits which, for some time before

the fatal occurrence that terminated the life of the latter, had done much to ruin the man's health and reputation.

It was urged that the crime was wholly unprecedented; that it was quite unprovoked; and that it could only be accounted for on the supposition that a sudden attack of *delirium tremens* had rendered Corrigan temporarily irresponsible for his actions. The witnesses deposed that the deceased woman had told them of Corrigan having already had one attack of that fearful malady; that upon his way to Burton's in the cab he had seemed strange in his manner; that when he committed the murder he appeared in a frantic state—that his eyes glared, and there was a thick perspiration on his face,—and that his eyes rolled wildly, while he did not speak a word.

He had been drinking for a week before the visit to Burton's; and on the day of the murder had taken no food—a state of things not unlikely to occasion a return of *delirium tremens* in any one subject to such attacks. The prisoner was found guilty, and sentenced to death; the judge (Wightman) appearing to coincide in the verdict, and attributing the event to Corrigan having been at the time in a state of intoxication.

The result of the trial aroused the Freemasons,

of which body Corrigan and Burton were members, as well as many other persons, to exert themselves to obtain a commutation of the sentence. Mr. Sheriff and Alderman Rose, and the Rev. Mr. Davis, the late Ordinary of Newgate, were very active, from the interest excited in their minds by the general conduct of the prisoner during his incarceration in that prison.

The question to be considered by the Home Secretary was really this: Was the act due, as assumed by the judge, to ordinary intoxication, or to a sudden attack of *delirium tremens*. If the former, drunkenness could not be admitted in mitigation; if the latter, then Corrigan was for the time a maniac, and entitled to mercy on that ground. A letter addressed by me, as Secretary of the Society, to Sir George Grey, on behalf of the prisoner, will show with what arguments we supported our appeal for mercy.

After calling attention to the trial for murder of a person named Westron, at the same sessions, who had been respited by the judges, on the ground that he was *predisposed* to insanity, our memorial proceeded as follows:—

"Who, on a perusal of the evidence against Corrigan, can suppose that, at the time he committed the act for which he is condemned, he was responsible for his actions, or alive to the

nature of his crime? Had there been the least presumption that he had primed himself with liquor, as a stimulant to aid him in the commission of the deed, it might well be said that drunkenness is no plea for mitigation; but, apart from this lamentable vice, which it appears was habitual with the prisoner, there is nothing to show against his conduct towards his wife. The witness, Elizabeth Fearon, even deposed to *forbearance* on his part when some little provocation was committed by deceased. There is no presumption of evil motive brought against the prisoner—an important fact when the question of insanity is raised. The crime was committed under circumstances not usually chosen by the *wilful murderer*—detection being certain and immediate—and without any apparent ill-will on the part of the husband and wife towards each other.

"I would next call your attention to the evidence of Mr. Cook, the surgeon who proved the cause of death. He is reported to have said: 'That in all cases where a person had been attacked by *delirium tremens* he was always subject to a recurrence of the malady, and it might come on very suddenly; but generally something occurred some hours before to give notice of its approach. . . . . That any one under the influence of *delirium tremens* was undoubtedly *insane*.'

"If, therefore, it appears that Corrigan was 'under the influence of *delirium tremens*,' he is entitled to be treated as an irresponsible being. Now it is stated by Mrs. Fearon 'That deceased had told her he (the prisoner) had suffered from *delirium tremens*, and that she had had to sit up all night with him, on account of his fancying that something was hanging about the bed.' This evidence bears the appearance of truthfulness, and deserves, at least, to be sifted before it is rejected. It is the more credible when coupled with the fact that Corrigan was an habitual drunkard. His previous debauch was eminently calculated to bring on the attack. He appears to have been capricious, and indifferent to passing events, and complained to the witness, Mrs. Burton, 'that he did not feel very well.' That was early on the morning of the day on which he killed his wife.

"Edward Burton asserts, 'That prisoner's appearance was totally different from that he presented when he was intoxicated. He appeared in a frantic state, his eyes glared, and there was a thick perspiration on his face; there was something peculiar in his appearance.' When given into custody, 'his eyes rolled wildly, and he did not speak a word."

"I cannot reconcile this evidence with any other presumption than that of insanity. Again,

the general testimony as to the prisoner's conduct towards his wife, and his apparent grief when told of her death, speak favourably on his behalf.

"A jury does not often grapple readily with questions of insanity. A judge will often receive the plea with disfavour. But I need not remark that the very object of a last appeal to the Crown is to correct the errors or qualify the judgment of the one; and should be exercised without reference to the prejudices of the other.

"I would, therefore, appeal to your experience as to the course usually taken by the Home Secretary in cases where such mitigatory features are presented, and submit that there are ample precedents to justify a reprieve in this instance, as an act, not only of mercy, but of simple justice."

With the determination to allow no point to be omitted that could strengthen our case, I forwarded a few days after the above a second letter to the Home Secretary; it was as follows:—

"I have devoted some time and labour in order to confirm, if possible, the already existing proofs, that Thomas Corrigan (on whose behalf I have already taken the liberty of

addressing you) was labouring under an attack of *delirium tremens*, when he committed the crime for which he is condemned; and that he had not harboured any ill-will against the deceased prior to his fatal attack upon her. I may be allowed to state that the witness Edward Burton and his wife appear to be respectable persons, every way worthy of credit. They have evidently felt most acutely the awful occurrence which has taken place in their house.

"The deceased made the statement as to prisoner having suffered from *delirium tremens* in the presence of ten or twelve persons, and in answer to a remark from one of the party — that prisoner 'looked ill' — deceased replied, 'He'll either die or go mad.' A Mrs. Hone (sister of deceased) asserts that she was also informed, by deceased, of prisoner's state on the occasion referred to, some days before it was mentioned in the presence of Mrs. Burton. It is curious to find further — that the fit of delirium during which prisoner killed his wife, had been preceded by just that line of conduct on his part, most likely to bring on an attack of that malady, viz., a *repetition* of hard drinking after *several hours' fasting*. On Christmas-day he had drunk deeply, — on the following morning he took only a cup of cocoa — he then

went to his business, and, as I believe he has stated, EAT NOTHING, *but did not abstain from liquor.* In the afternoon he was about to get some dinner, but the impatience of Mrs. Fearon and deceased to go back to Mr. Burton's induced him *still to fast.* We have thus the previous tendency to the malady,— the naturally inducing cause of its recurrence,— and, finally, a motiveless act, that can hardly be accounted for on any other ground. Mrs. Burton, also, states that prisoner *had complained of his head* as much as two or three months before the occurrence referred to. The absence of any predetermination to kill deceased is shown by the fact that he had given her £3 or £4 to purchase new clothing immediately before the occurrence. In conclusion, I find that the purchase of the knife is satisfactorily accounted for. Prisoner had been in the habit of taking his dinner at his place of business in company with a young man named William Fenwick, whose knife (not having one of his own) he was in the habit of borrowing; but, this plan being inconvenient, he had promised Fenwick that when he got his money he would buy one for himself. Thus, the purchase of the knife was but in accordance with a promise made long before."

The Home Secretary was evidently much

impressed with the various efforts made to induce him to grant a reprieve. Still that official bugbear, the dread of establishing a precedent which might one day be turned to account in some other case, strongly influenced him towards allowing the law to take its course.

The execution was fixed for Monday the 25th of February, and on the Friday preceding we knew that Sir George Grey still hesitated as to his decision. On that day I returned to London from the country, whither business had called me whilst the case was under consideration. I found that, from some information which had reached him, Mr. Gilpin had been induced to see Sir George Grey personally. He had had an interview with the minister that afternoon, and obtained an appointment for me to see the Home Secretary on the following day. I was there at two o'clock, the time fixed; and at the same moment the Right Honourable Milner Gibson, M.P., arrived, the bearer of a memorial signed by 2,500 persons in Manchester on Corrigan's behalf. The presence of so friendly and able an ally was of course a great encouragement; and at the interview which followed, and lasted for more than an hour, my right honourable companion's forcible appeal had evident weight with the minister. We had

to be contented at leaving, however, with the information that the decision would be given in the course of the afternoon. As I returned to the city I passed Newgate, and saw the barriers already erected which were to hold back the mob, certain to gather from all quarters of the metropolis, to witness the unhappy prisoner's dying agonies, and shuddered to think what an awful issue depended on one short hour. On the previous day Corrigan had bade adieu for the last time, as it seemed, to his weeping children and aged father. Removed from those stimulants which had transformed the man into the maniac and murderer, calmed by the quiet associations surrounding him in the condemned cell, his crime had come back to him with fearful remembrance, and the agony of remorse pictured his orphaned children's future unprotected lot, motherless and fatherless, on the wide wide world; nor was pure and sincere repentance wanting for the terrible sin that had wrought evil to himself and them. It was four o'clock in the afternoon when a reprieve reached the hands of the Governor of Newgate. Corrigan received it with that devout gratitude to an over-ruling Providence which became one thus snatched, as it were, from the very clutch of the executioner. The sentence was commuted

to transportation for life; good conduct obtained for him in the colony a speedy liberation from servitude; I believe the royal pardon has since been graciously accorded, and Thomas Corrigan, once the condemned murderer, rejoined by his children, who had been adopted by the body of Freemasons as their own, has repaid the merciful act of his Sovereign by performing in Australia the duties of a Missionary of the Gospel to other of her loyal subjects in that distant part of her dominions.

In the reference to the Home Secretary on behalf of Corrigan, an allusion is made to the conviction of a man whose trial had taken place at the same February sessions.

The curious nature of the evidence, and the unusual course taken by the jury and judges on that occasion, induce me to notice it, before turning to another class of cases. Charles Broadfoot Westron, a diminutive and deformed man, was charged with murdering Mr. George Waugh, a solicitor in Bedford Row, whom he had shot in the open street, near Mr. Waugh's own office. The prisoner was seen to fire a pistol at Mr. Waugh, by another solicitor's clerk passing at the time, who at once seized him, and handed him over to the police. A second pistol was found loaded in his possession.

Of course, no atttempt could be made to dispute the facts; and the defence rested exclusively on the plea of insanity. It appeared that Westron was entitled to a share in a certain property, and that Mr. Waugh had taken up the claim, and obtained various sums of money for the accused and his co-heirs. Westron, however, had conceived the notion — not, as far as could be ascertained, at all justified by the facts, that Mr. Waugh's deductions for costs were excessive, and that the latter was, in fact, defrauding him of his fair share of the estate. He had used threats some time previous to the murder, which was committed on the 16th of January, 1856. In consequence of those threats, Mr. Waugh summoned him to the Clerkenwell Police Court, where, however, that low cunning which not unfrequently accompanies insanity came to his aid, and he had treated the matter *as a delusion of Mr. Waugh's.* He was, therefore, allowed to depart, upon giving the assurance that he would not again molest that gentleman, and would transfer his business to another solicitor. The evidence for the defence established the following points in favour of the plea of insanity. In March, 1854, Westron had taken lodgings at the house of a Mrs. Agbourne, and astonished that lady

by complaints that his bed was not long enough, although it was over six feet, and Westron was far below the medium size; he frequently talked loudly to himself both day and night, and every time he went out of the house, would eye it all over carefully for two or three minutes; his conversation, though at times rational, was often frivolous and childish, and when any allusion was made to himself, he would stop abruptly. He had been heard to say, "that he wanted some spirits to make a fire and burn the devil, who was always walking about after him and annoying him," and that "he wished there was a trap-door in the house, that he might get outside and see the aforesaid personage, whom he would then challenge to fight." He had applied for the loan of a flat-iron, to frighten his supposed enemy with, and carried pistols for, as he said, his protection. One lodging-house keeper had turned him out, for running up and down stairs all night, and endangering the premises, by leaving the candle close to his bedside; another had heard him make a noise like a dog. He had burned articles in his room "to drive out the Evil Spirit," and was possessed with a morbid horror lest draughts should come through the chinks in the floor. His disposition was sullen and morose; and

there was a good deal of insanity in the family. His father had committed suicide ; an uncle had been under restraint for two years in a lunatic asylum, and died there ; the same fate had befallen one of his aunts. A medical witness deposed to having attended him for mental disorder, and expressed his opinion that, when Westron committed the act for which he was tried, he was incapable of distinguishing right from wrong. "Was the witness of opinion," asked Mr. Justice Wightman — the legal overruling the popular or medical view of insanity—"Was the witness of opinion that the prisoner was in such a state as not to know it was wrong to kill a man ?" The witness hesitated to go quite so far, but still repeated his belief that the prisoner was incapable of distinguishing right from wrong. Dr. Synnott, who attended to give evidence generally as to the state of the prisoner's intellect, was subjected to a severe cross-examination. Counsel asked him, also, "whether he thought the prisoner knew it was wrong to kill a man ?" He, too, naturally shrank from giving utterance to so extreme an opinion ; but still he said he believed Westron to be *quite ignorant of the enormity of the act.* Probably, in these words Dr. Synnott explained the other medical gentleman's opinion

as well as his own. That Westron knew that he had *no right* to take Mr. Waugh's life, and consequently was liable to be punished, was very probable; but then he did not see, as a sane man would, the moral enormity of the offence. In other words, a diseased brain so far confused his notions of right and wrong as to deprive him of the power of regulating his passions or propensities. Yet the jury, guided no doubt by the legal ruling of the Court, could not resolve after deliberating for three quarters of an hour, to return any other verdict than "Guilty of wilful murder." They qualified its effect so far as they could, however, by adding a recommendation to mercy on the ground that the prisoner was *predisposed to insanity*. Thus they sought to reconcile the proofs of moral irresponsibility with the evidence of legal guilt. Mr. Justice Wightman conferred with Mr. Justice Willes, who had assisted him in trying the case; and eventually, seeing doubtless the utter injustice, after the evidence that had been given, of inflicting the capital penalty, the learned judge ordered sentence of death to be recorded only, instead of passing it in the usual form. This amounted practically to a commutation of the sentence.

CHAPTER XI.

Sarah Chesham—An Artful Poisoner—Pupils in Poisoning—Execution of "Arsenic Sal"—Gallows Revelry—A Ghastly Exhibition—Sarah Newton—A Jury of Husbands—The Matfen Murder—Robert Palin—Honourable George Denman—A Counsel's Suggestion—Condemned Spaniard—"Mute of Malice"—Emmanuel Barthélemy—Awful Impiety—Hanged Impenitent.

THE escape of criminals from justice, owing to the reluctance of juries to return a verdict—especially on circumstantial evidence—which would inevitably consign the accused to the gallows, has frequently received startling illustrations. I propose to narrate a few of those that came under my own observation.

From fifteen to twenty years ago, arsenical poisonings were lamentably frequent, especially in the agricultural counties. The facility with which arsenic could be obtained from careless shopkeepers, and the fact that it was largely used by farmers, who purchased it by

the pound, of course afforded opportunities for its unlawful administration. The passing of the Sale of Poisons Act, in 1851, placed a very salutary restriction upon the sale of the deadly chemical; and since that time poisoning with arsenic has been of unfrequent occurrence. A wider knowledge of the easy detection of that particular poison after death, and the greater care of burial clubs, induced by experience, have also doubtless acted as preventives, though probably in a lesser degree.

One of the most notorious of arsenical poisoners was a woman named Sarah Chesham, who resided at Clavering, in Essex. This extraordinary person pursued the art of poisoning with the coolest and most business-like method, and the most fatal results. Wonderful stories were told of the morbid love of murder she exhibited. It was whispered by the country folk that she carried poisoned lozenges to slip into the mouths of little children when she met them on the road; and that other women were systematically trained to the art of poisoning with secrecy and effect.

Most likely many of these tales were gross exaggerations; but her career, as it came before the courts, was terrible enough without any colouring whatever. Her first trial was before

Chief Justice Lord Denman, at Chelmsford, in 1847, for poisoning two of her children. The evidence was exceedingly strong against her. The children had died suddenly; poison sufficient to cause death was found in their bodies; and the prisoner had refused to obtain medical assistance when they were taken ill. Eleven of the jury were prepared to find her guilty; but the twelfth, a person of some influence, had an intense objection to capital punishment, and so persuaded the others that they consented to return a verdict of "not guilty."

She was subsequently tried for a similar offence, and again acquitted; although I am not prepared to say that the verdict in that case may not have been a perfectly fair one.

In 1850 her husband died, and suspicion was again directed towards her. The man had been a farm labourer, was healthy and vigorous, and likely, to all appearance, to have enjoyed a long life. But by this time the determination to put a stop to these diabolical practices was pretty strong in the county; and the coroner, as well as the magistrates, used every effort to unravel the mystery attending the death of Richard Chesham. Before the coroner there was much prevarication amongst the witnesses, apparently with the view of screening the guilty party,

probably from the fact that other women of the neighbourhood were a little too deep in Chesham's confidence for their own reputation or safety.

The coroner's investigation at last broke down utterly. Still the magistrates continued their inquiries. A woman named Phillips at length stated that Chesham had in conversation alluded to the ill-treatment Phillips had received from her husband; and told her she ought to do what she (Chesham) had done, "make him a pie of sheep's liver," and if Phillips brought it to her "she would season it for her." This and other criminating testimony was laid before the law officers of the Crown, as well as the results of Professor Taylor's analysis. But here a great difficulty arose. The quantity of arsenic found in the body was not sufficient to account for death, although of symptoms of arsenical poisoning there were plenty. This proved how proficient an adept the wretched woman had become since she had first clumsily administered arsenic to her children, for whose murder she had been so improperly acquitted.

As she had stood in the dock on that occasion she had heard a medical witness describe the effect of arsenic being administered in exceedingly minute doses. As the deadly agent was absorbed

into the system, it would more slowly, but not less certainly do its work. The victim would die, but the manner of his death would not be readily distinguishable from ordinary disease. Thus, the end might be answered, and the murderer escape detection. At the moment this evidence was given the woman stood at the bar in peril of her life; yet she could listen to the terrible lesson, and store it in her memory to be used on a future occasion.

She had procured some rice and mixed a small quantity of arsenic with the grains, so that to each adhered a minute and almost indiscernible portion. Then, giving it from time to time, she saw her victim slowly perish, and gloried that her skill had ensured, as she imagined, her safety. The result was that, as no specific act of the prisoner could be said to have caused the death of her husband, the law officers decided she could not be indicted for murder. But, the "administration of poison with intent," etc., was then a capital offence. For that she was tried before the late Lord Campbell, at Chelmsford, in 1851. The facts above stated were clearly brought home to her. She was found guilty, and sentenced to death.

Before she suffered she confessed to her many crimes. Nor was she responsible only for those

her own hand had perpetrated. In 1849, a woman named May had been executed at Chelmsford, for poisoning her husband, who, in her dying confession, declared that she had committed the crime under Chesham's instigation and teaching. And even whilst Chesham lay under sentence of death, in the adjoining county of Suffolk yet another woman was arrested, and afterwards convicted of the same crime.

The execution of Chesham was the only event of the kind I ever personally witnessed; and I did so, let me state, only in deference to the wishes of Mr. Gilpin and other of my friends, who desired that I should be able to form a correct opinion as to the effect of such an exhibition on the minds of the country people. And I will say that, although of a very different class to the London mob that gathers at Newgate or Horsemonger Lane, neither so rough, nor so mischievous, nor so dirty, nor violent, I never witnessed such a carnival of debauchery as was that day held in the quiet, peaceable county town of Chelmsford.

The interest of the occasion was heightened by the execution, at the same time as Chesham, of a young farmer, named Drory. He occupied a respectable position in life, and had murdered a young girl he had previously seduced. Still,

"Arsenic Sal"—for that was Chesham's soubriquet—was the great attraction; and from all parts they came to witness the end of this notable woman.

A large portion of the crowd consisted of young people of both sexes, who had travelled far through the night on foot,—some of them I heard had come twenty miles or more to see the hanging,—well-to-do farmers drove up in their gigs to good positions in front of the drop, their wives and young daughters sitting laughing and chatting beside them; vans of pleasure parties, all in holiday attire, came as to a fair, and even more merrily. On the outskirts of the crowd stood grouped little knots of tradesmen of the town, come up evidently to enjoy the appetizing spectacle.

The hangman, Calcraft, was a great hero that day, and, as an Essex man, perhaps received the more attention. A person in Chelmsford being curious to see this worthy who strangled his fellow-creatures at so much per neck, sought him out the night before the execution, and found him acting as president of a convivial party assembled to do him honour.

Some delay occurred with the execution, the officials having difficulty in persuading Chesham to ascend the scaffold. She was led up, or half

carried, at last, and placed beside her companion in misery.

After the execution, and whilst the bodies were still hanging, Calcraft came through the crowd to a public-house, accompanied by some of the gaol turnkeys. The crowd, with loud cheers, rushed after him, and each rivalled the other in attempts to exchange a friendly word with the executioner. When the people had somewhat dispersed, I returned into the town, and watched their conduct from the windows of the hotel. The grand business of the morning accomplished, the day was evidently to be devoted to debauchery. Every public-house was full; obscene language could be heard on every side; and as the day wore on drunkenness got the ascendant, and I saw young country lads and girls clinging in reeling groups together, or even rolling in the gutters of the public streets. Presently there was a great rush and much hallooing. An open cart, drawn by a wretched pony, was passing through the town, followed and surrounded on all sides by a yelling crowd. In the cart was the coffined body of Sarah Chesham on its way to Clavering; for, as she had not been convicted of murder, the order for burial within the prison walls did not form part of the sentence. Many of the

people accompanied the corpse the whole way to Clavering, and at each town or village it passed through it created a perfect furore of excitement.

At Dunmow one of the accompanying group of travellers stole a pair of trousers from a tailor's shop, and was at once taken into custody, to be sent back to Chelmsford for trial. In the inn yard at Dunmow, where the party rested, a set of idle people amused themselves with chipping pieces off the coffin to keep as relics. Others offered to subscribe a liberal sum for the relatives of the criminal if the coffin lid were removed that they might see the body. This however, was refused. Clavering, however, asserted its right to witness for itself that its terrible parishioner was actually dead. The body was exposed to the public gaze. The examination of the mark made by the rope round the neck, and the exhibition of the still pinioned arms, gave intense satisfaction to a crowd of visitors.

On the evening of the day of execution I walked about the town of Chelmsford. Many of the people had departed; but still, in every low public-house, the strains of the fiddle and the clatter of hobnailed boots, told that there were numbers still left to celebrate by their festivities the execution of "Arsenic Sal."

Some three years after Chesham's death, a woman, named Sarah Newton, was tried at Hertford for poisoning her husband. Much to the surprise of everybody she was acquitted. Here, again, I found the capital penalty had interfered with justice.

One of the jury was asked why they had acquitted Newton, when they had convicted some other person charged with a secondary offence, upon much less conclusive evidence. "Why," he replied, "you surely wouldn't hang a man on the same evidence that would transport him." The reader may draw his own moral from this little incident.

About a year after the time of Chesham's conviction, a very extraordinary verdict was returned by a jury at the Central Criminal Court, upon the trial of Thomas Bare, for murdering his wife. Here is a brief statement of the case, as it was narrated by the *Times* newspaper:—

"The man had a long-standing quarrel with the poor creature who was so unfortunate as to be his wife; she had fled from his presence for reasons which the sequel has proved not to be groundless, and which are not rendered less valid by the circumstance, that it is no longer accounted murder for a man to hunt down and kill his wife. He had declared that 'revenge was sweet,' that he would have his revenge at

any cost, and did not care how far he had to go for it; he had set spies and laid a trap to discover the refuge of his intended victim; he had purchased a flat file, and afterwards, very wisely for his purpose, changed it for a triangular file, a much stronger weapon. This he sharpened, a work of no common difficulty, and hid about him.

"Having made his way by a stratagem into his wife's apartments, after a brief altercation, he inflicted sixteen wounds on her face and body, breaking one of her ribs, and severing the pulmonic artery. He did his work effectually," adds the *Times*, "for the woman died on the spot, and on being informed of the fact, he expressed no regret for it, the only approach to proper feeling, which the jury have done their best to neutralize, being an admission that he deserved to be hung for what he had done. Now, if there be such a crime as murder at all, this is murder, and murder, as it seems to us, of no common atrocity. . . . . There is one thing a wife-killer may always remember with comfort, and that is, that he will be tried by a jury of husbands."

It was my habit to keep a record of all assize trials for murder, and I have some of my notes now before me. Thus, ten cases tried

at Liverpool Summer Assizes in 1855, resulted as follows:—Acquitted altogether, two; found guilty of concealment of birth, three; of manslaughter, four; insane, one; and of murder, *none*. In the year 1856, the escape of the Matfen murderers attracted great attention. An old woman, named Dorothy Bewicke, was strangled in her bed, and her cottage was robbed. Three men and four women were tried for the crime at Northumberland Spring Assizes, and all acquitted. A correspondent of the *Morning Star*, wrote to that journal as follows:—"The verdict affords a strong proof of the reluctance of a jury to find a verdict that would send a fellow-creature to the gallows. I have had a conversation with one of the jurymen since the trial, and he informed me, that however strong their convictions were of the guilt of the *male* prisoners, with one exception, they all agreed to a verdict of acquittal rather than the men should be hung."

A similar case, where, however, one man only was charged with the robbery and murder, took place in Kent in 1855.

The road from London to the little village of Westerham, passes through a straggling district or parish called Cudham, and close to this road, at some distance from any other house,

lived a man named Beagley, his wife, his son,—a grown-up young man,—and his wife's mother, a very aged woman. The father and son rose early to their daily work as farm labourers, and did not return till evening.

On the 25th of August, in the above year, they left as usual, soon after five o'clock; Beagley's wife was then in bed and asleep; the older woman also remained in her own apartment. When the men returned home in the evening, they found the door, which they had left open in the morning, locked, and the key taken out. On entering, through the window, they discovered Mrs. Beagley lying in her bed brutally murdered. Her skull had been completely battered in with a pair of tongs, subsequently found soiled with blood, to which adhered portions of the murdered woman's hair. A few shillings in money, some dresses, and the son's best clothes, were gone, although they were not all at once missed by the distressed and terrified survivors. The older woman had also been attacked; but she was never able to give any account of the fearful transaction.

For this atrocious crime a young man named Robert Palin was arrested, and tried at the Maidstone Winter Assizes. The evidence by which the prosecution sought to connect the accused with the murder was as follows:—

Soon after six o'clock, on the morning of the 25th of August, a man was seen to come from the direction of Beagley's cottage into a clover field, where three mowers, named Jackson, Crane, and Tremaine, were at work. Jackson, observing a trespasser, hallooed to him, whereupon the man looked at the group for a moment, and then ran quickly away in another direction. The mowers identified Palin as the man they had observed under the above circumstances, both by his dress and general appearance. They also declared that he carried a bundle, which looked as though it had been hastily made up, some of the contents hanging out loosely. These men had not been quite so positive in their first evidence before the coroner as they were at the trial; but this was rather to be accounted for by their ignorance of terms—one of them being staggered by the word "countenance"—than by any substantial disagreement between their earlier and later testimony.

On the morning of the 26th, a police officer stopped Palin, who was then entering Croydon from a southerly direction, that town being some nine or ten miles to the westward of Cudham. The officer, however, was seeking another man, and, not finding in the bundle Palin carried, the articles he was expecting, allowed him to go

about his business. But in that bundle were clothes answering to the description afterwards supplied of some of those stolen from Beagley's cottage. Palin told the officer he was on his way from his grandmother's at Copthorne, a place about eighteen or twenty miles south of Croydon. His grandmother, it was true, lived there; but his statement that he had been with her was proved to be a falsehood.

Some ten days afterwards, a metropolitan police-officer arrested Palin, whom he knew as a ticket-of-leave man, at the cottage of another of that fraternity in Gloucestershire; *and in the cottage were the clothes stolen from Beagley's.*

The obvious connection between the robbery and murder—the identification of Palin by the mowers—the evidence of the policeman, who examined the bundle containing the stolen garments—and the discovery of them in the prisoner's possession in a distant county—formed, perhaps, as strong a chain of circumstantial evidence as could well be conceived.

But this was not all. The prisoner asserted that he had passed the night before the murder was committed at the Bell Inn at Oxted, a village south-east of Croydon, and about five miles from Cudham. A person, however, came forward who had seen him at Cudham late the

previous evening, not far from Beagley's cottage; and the landlord of the Bell deposed that prisoner had not as he said slept there on the night of the 24th, but had arrived there and breakfasted on the following morning between eight and nine o'clock, thus allowing him about two hours to reach Oxted from Cudham after his appearance in the clover field, and accounting for his entering Croydon from a southerly direction on the morning of the 26th. He accounted for the possession of the clothes by saying he had bought them of a stranger at the Half Moon public-house, situated on the road from Oxted to Croydon; but the various persons employed at the Half Moon, all swore that no such transaction had occurred there.

The Hon. George Denman defended the prisoner with great ability; although under the disadvantage of being wholly uninstructed, save by the depositions placed in his hands by the court. The learned counsel of course made the most he could out of such materials as cross-examination afforded; and strove to break down the case by a critical scrutiny of each separate link in the chain that seemed so tightly coiled round his client. Yet, I am justified in saying that not one barrister in court who had heard the trial, had either the remotest doubt

of the prisoner's guilt, or of the perfectly clear case legally proved against him. But, after two hours' consideration, the jury found Palin not guilty. In Mr. Denman's speech, I find the following passage reported:—

"*If, hereafter, circumstances should come to light, which should exonerate the prisoner of this charge, what a miserable reflection it would be for us all that we had consigned an innocent man to a shameful death . . . or that you should have been made the instruments, of course the unwilling, unhappy instruments, of consigning that young man to the scaffold.*"

Can any one doubt, after reading the foregoing narrative, that the suggestion thus skilfully cast into the scale, was the argument that weighed down the beam in favour of an acquittal. *For did not the Kentish jurors, like their Hertfordshire compatriots, consider that it would be very wrong to hang a man on evidence that might most properly transport or imprison him.*

At the time that Sarah Newton, to whose acquittal at Hertford I have referred, was awaiting her trial, I had an opportunity of visiting the county prison in that town, and seeing several of the prisoners in their cells.

Amongst them was a Spaniard named Miguel Yzquierdo, who had been tried and condemned

to death for the murder of a little boy, but afterwards reprieved. The circumstances of this case were very singular. The murdered boy was scaring birds with a gun in the fields, when he caught sight of the prisoner trespassing, and, possibly a little too authoritatively, called to him to turn back. The prisoner, when taken into custody, by gestures and in very broken English explained that the boy had pointed the gun at him, as though intending to shoot him. This he intimated had induced him to attack the little fellow with a stick he carried, so furiously as to cause his death. The robbery of some of his victim's clothes, which he also committed, was probably an afterthought. The murder was perpetrated in August; and, till near the time for the following Spring Assizes, the prisoner spoke frequently to those about him. Suddenly, however, he ceased speaking altogether. His interpreter seeking to know the cause he took no notice of his questions, but became very violent. He declared, if he was sentenced to death, he would revenge himself on those who sentenced him: there should be blood at his death. Then he threw himself on the ground, and said, "He wouldn't speak any more." So he continued dumb; and, when brought up for trial, and called upon to plead,

made neither sign nor answer. A jury was then in due form impannelled, to try whether he was wilfully mute or really incapable of speech. They found him "*Mute, by the visitation of God.*" So the trial was postponed, and the prisoner, still silent, was remanded to prison till the next assizes. Again the same proceedings were gone through, but a less charitable jury now found him "*Mute of malice.*" The trial resulted in a verdict of guilty; but the sentence was commuted, owing chiefly to doubts whether the prisoner had not really believed the boy meant to shoot him, and so retaliated in self-defence. Some months had elapsed when I saw him, and I confess that a more villanous specimen of humanity I never beheld. He was still mute; and had also refused to work: on one occasion making a ferocious attack on a turnkey who had offended him. A sound whipping had made him more industrious; and, his arms being pinioned so as only just to allow his hands to perform the duty of picking oakum, he was incapacitated for further mischief.

Another murder by a foreigner, about the same time, attracted public attention; and the character of the culprit, like that of the preceding one, may, from a psychological point of view, be examined with interest.

Emmanuel Barthélemy was a Frenchman, a political refugee, who, previous to the occasion which terminated his career, had been before the courts both of his own and his adopted country. At the age of seventeen, he had taken part in the insurrection in Paris, in 1839. He was subsequently tried for shooting a sergent-de-ville, and for this offence was imprisoned, but released at the time of the revolution of 1848, by order of M. Cremieux, Minister of the Interior, on the ground that the act of shooting the sergent-de-ville, by a young man of seventeen, at a time of public excitement, was not to be treated as a crime of serious magnitude, but simply as an incident of the conflict between the insurrectionists and the police.

That he was not wanting in disinterestedness and humanity, was shown by his conduct during the insurrection of June, 1848, in which he took a prominent part. When tried by court-martial, for his participation in that affair, he was proved to have pawned his watch to provide food for his companions. It was also deposed that a company of the National Guard having, by a false movement, placed themselves at the mercy of the insurgents, Barthélemy had at once ordered his followers to cease firing, and so saved their lives. It was further asserted that,

whilst a prisoner at Brest, he had displayed both courage and humanity by risking his own life to save one of the naval officers from drowning.

In England he figured as one of the principals in the "Egham duel," and was at first suspected of foul play; but that imputation was afterwards removed. He was, on the other hand, an industrious and enterprising workman at his trade. He registered a patent for colouring glass, and toiled so hard that his neighbours complained of the hours at which his operations disturbed their rest.

The crime for which he was at last tried and sentenced was the murder of an inoffensive man named Collard. Barthélemy had gone, accompanied by a woman, to demand, as was supposed, some money for the latter, to the house of a person named Moore, in Warren Street, Fitzroy Square. A dispute evidently occurred, and Barthélemy, who was armed with a brace of pistols, shot Moore dead in the passage as they were going to the door. Some persons, Collard among them, saw Barthélemy leaving the house. Observing them, he re-entered it, and endeavoured to escape by the back of the premises. At the suggestion of the woman they ran round to intercept him, and Collard had

seized him, when Barthélemy, raising his hand, lodged the contents of the second pistol in the poor fellow's body. With some difficulty the assassin was secured. Collard died in twenty-four hours in great agony. An attempt was made to show that the shot was the result of accident; but it failed utterly, and sentence of death followed the verdict of guilty.

It was after his conviction that the awful impiety of the convict was most plainly manifested. I would not reproduce the narrative of his atheistical, and, at times, blasphemous conversations, were it not well that we should contemplate the condition of those we dare to hurry before the judgment-seat of the Almighty. He was supposed to be a Catholic, and the Rev. Mr. Davis, the late ordinary, would gladly have provided him with the attendance of a minister of that Church; but he soon found that Barthélemy had no religion whatever; and after a Catholic priest, the Abbé le Roux, had called to see him, the condemned man remarked that "*he had too much good taste to trouble him about religion.*"

When told he had only sixteen days to live, he responded "that he was so disgusted with life that if the sentence of the law were not executed upon him he would execute it upon

himself;" a second officer being appointed to watch him in consequence of this threat. He ridiculed the idea of an Almighty Power, and said, "It was no use for him to pray to God, as he was quite sure God would not break the rope." Mr. Sheriff Crosley spoke to him kindly and seriously about a future state; but that religion which so often softens the heart of the condemned had no effect upon him. "What," said he, "is the use of your talking to me of these things? You speak of a deluge to punish men for their sins,—mankind is now as wicked as ever." On another occasion he remarked, with better logic, "That he was going to be executed for the murder of only two persons (Moore and Collard), but that Louis Napoleon, a far greater criminal, was thought a great man."

Only once he showed some feeling, when Mr. Sheriff Crosley asked him if his father entertained similar opinions to himself on the subject of religion. He answered "No, he is a believer;" and when the sheriff further enquired how it was he did not follow so good an example, the hardened murderer burst into tears. But the effect of the allusion was soon over. He told the officials "he didn't want forgiveness of God; he wanted forgiveness of men,

and that the prison door should be opened;" adding afterwards, in jest, "he hoped if there was a God he would be able to speak French." When the hour for his execution came and the procession set out for the scaffold, he maintained the same hardened bearing. Mr. Sheriff Crosley ventured a last pious suggestion. "I don't believe in God," replied the prisoner, "I have no faith in God." With a request to the hangman "to do it quickly," he stepped upon the drop; and in a few moments the law of man had sent the impenitent spirit to be judged at the bar of that God it had so recklessly defied.

CHAPTER XII.

Innocent Life Sacrificed—William Cummings.

It is, no doubt, the gravest objection to the death penalty that by its infliction the innocent may suffer for the guilty, or that grave injustice may be done to persons who do not possess the means of vindicating themselves wholly, or in degree, from the capital charge.

I have narrated some that have occurred in past times, and many other terrible illustrations of the same description are to be found in books familiar to every one. The Prisoner's Counsel Bill, for which the country cannot be sufficiently grateful to Mr. William Ewart,—the tendency of juries to lean towards an acquittal when life is in danger,—and the public abhorrence of the penalty actively exhibited in a majority of cases between sentence and execution, all interpose to prevent the infliction of an irrevocable penalty when doubts exist as to its justice. But these

influences are not always successful; nor will absolute security against such catastrophes ever be attained, so long as fallible tribunals are permitted to exercise the terrible prerogative of passing an irrevocable judgment. In the case of William Ross, narrated in the preceding pages, it was impossible to establish *positive proof* of his innocence, although I have no hesitation in saying that the evidence in his favour was, beyond all question, far stronger than that on which he was condemned. And let me here remark, that the execution of a person, *believed* by the public to have suffered unjustly, has an effect hardly less pernicious than the death of one proved to be innocent. I have always urged, and do so most fearlessly, that it is those who elect to encounter these dangers and mistakes who bring the law into contempt by their prejudices against change or reform, not those who, by avoiding the risk, would save the law from criticism, and, it may be, dishonour.

The trial of William Cummings at Edinburgh, for wife-murder, in December, 1853, will long be remembered in that city, for the interest it excited, and the strong belief that prevailed of Cummings having been most unjustly executed. Cummings was a seaman, residing, when on

shore, at Leith, although his voyages were of long duration, and he was seldom at home. He had the reputation of being a quiet, inoffensive man, and bore a good character for steadiness and sobriety amongst his seafaring companions.

On Friday, the 21st of October, 1853, Cummings returned from sea. He had married some five years previously; and it was with the alleged murder of his wife, said to have been caused by a series of acts committed between the 22nd and 26th of October, that he was subsequently charged. In a house, at a little distance from Cummings', lived a family named Danskin; and the principal evidence implicating the accused came from these people and their lodger, a woman named Jane Hunter or Selkirk. They deposed that on the nights of Saturday, the 22nd, and Tuesday, the 25th of October, they had been roused by loud cries of murder, which they knew to proceed from Cummings' house, and that they recognized Mrs. Cummings' voice. On Sunday the 23rd, Jane Hunter saw Mrs. Cummings, who was all bruised, and said "her husband had done this," the witness adding that Cummings *did not seem* to deny it. After hearing the cries of murder on Tuesday night she went over to Cummings', and found deceased lying across the bed unable

to speak. To Mrs. Danskin, who visited deceased on Sunday the 23rd, after hearing the cries of murder on the first occasion, Mrs. Cummings also said, "William had done it, he struck her severe with a stick."

The only witness who gave evidence that she had actually *seen* Cummings abuse his wife, was the daughter, Marion Danskin, a girl 14 years old; and it was no doubt mainly on her testimony that a capital verdict was found. On the Tuesday night, she said, she put Mrs. Cummings to bed about eight o'clock, Cummings being then in bed. After getting a sleep, "he rose and knocked his wife out of bed." His wife appropriately warned him of the risk of being hanged, "when he struck her against the floor, and stamped on her with his knees; he struck her with a stick also on the shoulder." The witness being frightened, ran away, and "when witness was at the foot of the stair she heard a noise as if Cummings had been beating his wife with a stick."

Another witness, a woman named Burgess, deposed to two visits she had paid to Mrs. Cummings on the 23rd. Deceased was then in bed, suffering, as she told witness, from "her husband's strokes." She then went on to describe his assault upon her on the previous

night, and exhibited several bruises on her body. Burgess called again the next day, and testified that Mrs. Cummings had then "a delirious look," but was surprised to find her out of bed. The prisoner went away without concealment on the 26th; he returned, however, on the 1st of November, and was taken into custody. Meantime, the woman was taken to the hospital, where, on the 8th of November, she died. The medical evidence went to show that bruises and ill-treatment were the cause of death; and it was distinctly deposed that no one fall could have caused such injuries as the body presented. It should be mentioned that the Danskins and Hunter all deposed to the perfect sobriety of the deceased woman, both at the time of the above described occurrences, and generally.

Without professing perfectly to understand the principles regulating the proceedings of Scotch courts of law, I think I may assume that the first question asked by the reader will be: Supposing the above facts all proved, does this constitute *murder?* I will not contrast this case with the altogether exceptional verdict of the jury who convicted Thomas Bare of manslaughter; but in a case where no deadly weapon had been used, and death was said to be caused,

not by one act, but by a series of assaults, for neither of which separately would the law have awarded more than a few months' imprisonment, and where the woman lived nearly a fortnight after the last alleged assault had been committed,—in such a case, without for one moment closing our eyes to the wickedness of any assault upon a wife, it would seem obvious that a verdict of culpable homicide and a severe secondary punishment would have fully met the requirements of justice. So thought many of the most respectable citizens of Edinburgh; but, when they came to institute an investigation into the case, they were able to do much more than challenge the form of the verdict. They came to the conclusion that, with the exception of one blow struck on Saturday, the 22nd, and which Cummings admitted had been inflicted under considerable provocation, the accused was altogether innocent of the alleged brutality; and that the injuries to the deceased woman had been caused by a series of falls occurring through her own intoxication.

The Danskins, as above stated, had deposed to Mrs. Cummings' sobriety; and the Lord Justice-Clerk, in summing up, had especially pointed out that the woman was quiet and industrious, and that during the period to

which the evidence related there was no proof of intoxication.

Enquiries, however, showed that, but for the prisoner's poverty, the following evidence could have been adduced to contradict the statement of the Danskins at the trial relative to the sobriety of deceased:—John Campbell, pawnbroker, "had often refused to deal with Mrs. Cummings *on account of the extreme degree of intoxication under which she laboured.* In August last she pawned her husband's hammock for eightpence." John Lewis "saw Mrs. Cummings on the Saturday night referred to in the indictment, so drunk as to fall three successive times, once on either side of the wall, and the third time in the middle of the close." On Wednesday morning following (the night of the alleged murder), he saw Cummings go up the close and tumble over the body of his wife who was lying at the foot of the stair. Cummings then knocked at a neighbour's door, asked for a light, and exclaimed—"What am I to do with this unfortunate woman, she's my own wife; I'm a heart-broken man; will you give me a hand up the stair with her, and I'll be obliged to you?" John Stewart, police officer, accompanied Mrs. Cummings home on Tuesday night, when her husband refused her admission, as "he would

not allow any drunken —— like her, who had pawned his clothes and wasted his money, to enter." Mr. Day, Sub-Inspector of Poor, visited Mrs. Cummings twice in July, in consequence of her having been put on the Poor's-roll, and on both occasions "found her intoxicated in her own house." Mr. Day also saw her on the Monday evening, 24th October, "walking far from steadily." Mrs. Walker expressed great surprise to hear Mrs. Cummings pronounced "a steady and sober woman," as "upon many separate occasions she had seen her reeling and staggering under the influence of drink." Hugh Andrews "had repeatedly seen Mrs. Cummings so much intoxicated as to fall in the street. He had seen her upon the Saturday night of the assault in a state of intoxication staggering up and down the close." Mary Hardie, who had two sons married to two daughters of Mrs. Cummings, by a former husband, "had known Mrs. Cummings for the last fourteen years, and had all along regarded her as a regardless, drunken woman." John Cutler, shopman to Mr. Napier, gave similar testimony. On the evening of Monday, October the 24th, he said Mrs. Cummings came into his shop under the influence of liquor; she was all dirt, one side of her bonnet crushed, and her face

much bruised and discoloured. On expressing his surprise at her appearance, she said "*she fell off the coach* in returning from Edinburgh." A half mutchkin of whisky was then purchased by Cummings, and he and his wife went away together. David Wilson saw Mrs. Cummings about eight o'clock at night on the Tuesday. She came in to get a dram. He saw her again "between eleven and twelve o'clock going home alone; she was very much the worse of drink. He did not think she would be very able to go up a stair; she came up against the wall, and staggered into the road." Mary Lewis saw Mrs. Cummings on Tuesday "come out of the door of her own house; she stumbled at the top of the stair and *fell from the top down to the bottom;* she exclaimed—"Oh, my God, my bones is bruised!" Witness immediately went into her own house and told her parents. Elizabeth Riley saw her the same evening drunk, when "she fell against the wall." Two of the women who attended her after she was confined to bed—not Mrs. Hunter—were always drunk. Katherine Richardson, a servant in Leith, assisted Mrs. Cummings to rise—she having fallen on the street from intoxication. "She was so intoxicated as to be unable to speak." The witness assisted her home, and when retiring

Mrs. Cummings fell helplessly on the floor. She bruised her elbow by the fall. Witness saw her repeatedly afterwards, when she was greatly the worse of drink.

But, although this proof of their unreliability vitiated the whole of the Danskins' and Hunter's testimony, it was not all that was discovered to prove its falsity. With respect to the alleged cries of murder, the Leith magistrates, who examined the locality, were of opinion it was incredible that the cries could have been been heard as stated, still less that the woman's voice could have been recognized; and it did seem strange that these people should have remained quietly in bed, whilst a friend and neighbour was thus shrieking "Murder!" Stranger still, a decent man named Campbell, *who lived in the same house as the Cummings, and was awake the whole night*, had not heard the alleged cries.

The girl Danskin (a child of fourteen only, be it remembered) did not report the beating she said she had witnessed to her parents, but went deliberately to bed; and, at the very hour on Tuesday night that this girl stated she had put Mrs. Cummings to bed, the said Mrs. Cummings walked into Mr. David Wilson's shop "to get a dram"—she being then, she

said, on her way to the police-office, where she arrived at a quarter past eleven. Mr. Wilson afterwards saw her returning home, between eleven and twelve o'clock — so that the brutal attack declared by Marion Danskin, to have occurred in the house of Cummings, and for which he was hanged, took place, according to the girl, at a time when, on the testimony of two credible witnesses, Mrs. Cummings was not at home. Cummings himself declared that he did not return home till nine o'clock, or see the girl in his house that night.

It was the same night, or rather next morning, that a man named John Lewis saw Cummings stumble over his wife's body; that Campbell assisted to carry her up stairs; it was the same night, and after the assault sworn to, that this smashed, bruised, and all but murdered woman, appeared at the police-office respectably dressed to complain that her husband would not allow her to enter — an exclusion for which, after the treatment described by the girl, one would have supposed she would have been rather thankful than otherwise.

The medical testimony was given by gentlemen whose honourable desire to establish the truth could not be challenged for one moment.

But other authorities, of at least equal eminence, although they had not the advantage of examining the body, after perusing the statements of the medical witnesses, ventured to give a very decidedly contrary opinion.

Professor Miller said, "I am constrained to express my belief that the fatal injuries sustained might possibly have been caused by a fall in the stair leading from her own door." "I have no hesitation," said Dr. Williamson, "in expressing my clear and decided opinion that the fatal injury of the head from which she died might *most probably* be the result of a fall down stairs." "I am decidedly of opinion," said Mr. Glover, surgeon of police, after describing the awkward doorway to Cummings' house, the unequal steps, the abrupt and straight stair, and the smooth wall on each side, "I am decidedly of opinion that it is not only possible that such injuries as were found on the head of the deceased could be occasioned by a fall or falls down a stair, but that a person might readily lose his or her balance in that particular stair, and fall so as to bring the head in violent contact with one or both of the opposite steps, and thereby receive such injuries. The position of the bruise on the scalp near the vertex, as described in the report, is quite reconcileable

with the assumption that the injury was occasioned by a fall down that stair. It would be a very rash opinion to maintain that a fall down a stair could not possibly produce such an injury as the deceased received."

Surely, here was enough, at least, to excite sufficient doubts to justify a commutation of the sentence, in a case presenting no evidence of a deliberate attempt to murder, nor sustained by proof of any one specific act having caused death. A fortnight's respite was granted to allow of a reconsideration of the medical evidence, and that alone; it was not to be tolerated that the sworn testimony of the witnesses as to the alleged violence, or the sober habits of deceased, should be called in question for one moment. Better by far to hang an innocent man than admit the fallibility of a Lord Justice Clerk and a Crown prosecutor. So seemed to argue the Executive. It was a special feature of Lord Palmerston's administration, that drunkenness should not be admitted as a plea in mitigation of crime, and the theory of the prosecution ascribed Cummings' alleged brutality to intoxication. Meanwhile the condemned man received the consolations of religion with much humility. He was attended by the Rev. Mr. Ferguson,

an Episcopal minister, who became greatly interested in his fate, and conceived a strong belief in his innocence, which Cummings persistently asserted.

The Home Office refusing to interfere, on Monday, 23rd January, 1854, William Cummings was hanged. On the scaffold he addressed the crowd in a loud, firm voice, protesting his innocence, saying he had been forty years a sailor and never expected to come to such an end, and exhorting the people to look to Christ as their only Saviour. At the interment of his body in the prison, two of his former officers attended to show their respect for his past character. Cummings left with the Rev. Mr. Ferguson a paper containing a statement which was to be delivered to the magistrates after his death. Therein he declared his innocence of the crime of murder as to intention or fact; he charged several of the witnesses with perjury, and denied most solemnly that he had struck his wife at all on the night of the 25th, although he admitted "he raised his hand to her," on the Saturday preceding, but on that occasion only; he described his having, with his neighbours' assistance, to carry her up stairs on the Tuesday night (25th), and explained the arrangements he had made for her support in his absence, which were only insufficient

through her dissipation. He concluded by reciting several acts which would show he had acted kindly towards his wife, amongst others that he had walked six times from Glasgow, and once from London to see her, on his return from sea, the last journey occupying seventeen days, whilst he lived only on bread and water. This sad story had a sad sequel. The night preceding the execution was bitterly cold. According to custom, the prisoner was removed on the previous evening to the "lock-up," near to the scaffold. The apartment was altogether comfortless. Even the hardy sailor suffered severely; but his humane and devoted attendant, Mr. Ferguson, who had divested himself of his top-coat to cover the shivering prisoner, caught cold, became seriously ill and died. He left a widow and a large orphan family.

CHAPTER XIII.

Painful Recollections—Alfred Waddington—Mr. Hadfield, M.P.—Viscount Goderich—The Frimley Murder—The Approver—A Sad History—John Murdock—Constructive Murder—A Juror's Appeal—Home Office Logic—Murdock's Past Life—Vain Efforts—Elizabeth Martha Brown—The Prisoner's Confession—Corroborative Evidence—The Execution—A Juvenile Poetess—John Hannah—Memorial to Sir George Grey—Statements in Extenuation—The Prisoner's Father—Memorial to the Queen—Jurors' Memorial—Failure of Efforts—The Hour of Execution.

It may readily be supposed that our systematic watchfulness over the operation of the capital penalty, brought under our notice a large number of cases in which it was impossible to challenge the legality of the verdict (having regard to the existing state of the law), or to set up any other plea for commutation of the sentence, save that which expressed in the French code by the term "extenuating circumstances." In some, perhaps, even this plea, rigidly construed, would hardly apply, although it was exquisitely painful to learn what had been the past

history of the condemned or the adverse events that had hurried him along the downward path to ruin. I shall devote the remainder of my narrative of our experiences to narrating a few these cases.

At the assizes which witnessed the sentence of death passed upon James Barbour at York, during Lord Palmerston's secretaryship, to which reference has been already made, another case widely differing in every respect, and affording a striking illustration of the varying degrees of guilt attaching to the crime of murder, was tried before Mr. Justice Talfourd.

Alfred Waddington was only twenty years of age, and the father of an illegitimate child of about twenty months old, of which a young woman named Sarah Slater, residing at Sheffield, was the mother. He had been ordered to pay two shillings a week towards the support of the child, whereupon, as was stated at the trial, his conduct towards Slater became such, as to compel her to make a complaint before the magistrates, and he was bound over to keep the peace for six months. This was eight or nine months before the murder of the child ; and only two days before its dead body was found, the mother had taken out a warrant for Waddington's apprehension, on account of his arrears in the

weekly payments. Moreover, on the very morning of the day on which the child was murdered, Waddington and the mother had a conversation in reference to his conduct, and her having had to bring him before the magistrates. He then threatened to blow out her brains, and that he would play "Rush" upon her.

She and the child were, at the time in question, living at the house of her mother, and on the 18th of August the infant was given by the grandmother to a little girl, ten years of age, named Martha Barlow, to be taken out for a walk. The girl meeting the prisoner in the street, he took the child from her, and sent the girl away to fetch its mother, saying, at the same time to the child, "Come, Elizabeth, let us go a ta-ta." The girl objected, but Waddington caught up the child and ran away. That evening the mother was at a school for teaching reading, and, shortly after eight o'clock, the young man put his head in at the door, and called out "Sarah Slater, you're wanted." She went out, and Waddington drew out from his pocket a shoemaker's knife, with blood upon it, saying, "See thee, this is thy child's blood; I have murdered thy child;" and whilst he and the mother were going along, he made two or three attempts to cut her throat with the knife. He also, on meeting with

another woman named Sarah Dobson (she and Sarah Slater being class-mates), struck her on the face with the knife, with which he inflicted a severe wound. At two o'clock on the following morning, being then near his own home, a policeman coming up, he called out "Watch." The policeman went to him, and he said (no doubt feeling compunction for the crime he had committed), "I have murdered a child, take me into custody." *He also pulled up his coat sleeves, and requested the officer to put the handcuffs upon him.* From a statement Waddington made on his arrival at the police station, the child was discovered with the head severed from its body, in Heeley Wood, and a knife was found in the river Sheaf, with which Waddington acknowledged he had committed the murder.

That the dreadful act was perpetrated by Waddington, there never was the slightest doubt; and therefore the only ground of defence that could be set up—and which the circumstances of the case would seem to have justified—was that he was insane at the period he committed the offence; a conclusion at which, however, the jury, after mature deliberation, could not feel themselves justified in arriving.

He was accordingly condemned; but very active measures were taken to obtain a respite,

the strong feeling against Barbour reacting considerably in favour of Waddington. It appeared that, in consequence of his violent temper and tendency to drink, the child's mother had refused to allow him to have possession of it. He said "that what made him kill it was that he could not be the father of his own child." He loved the little creature, and infant children generally, to a remarkable degree. He had drunk deeply on the day of the murder; and a wound in the head, received long before, made him peculiarly susceptible to the influence of liquor. Directly after committing the crime, remorse and contrition took place; he ran wildly and madly to and fro to the place where he left the body, to see (as he told his mother) that even the birds did not hurt or peck its precious little body; he gave himself up to the policeman freely and resignedly; to the last he exhibited the utmost penitence and humility, and humbly bowed to the decree of the law.

The municipal authorities at Sheffield took active measures to obtain a respite; and they were most ably represented in London by Mr. Hadfield, M.P., who used every possible effort, but without success, to induce Lord Palmerston to grant a reprieve. Mr. Hadfield also invoked the assistance of Viscount Goderich, then repre-

senting the West Riding. I give his letter in reply to one from Mr. Hadfield, because it contains an allusion to Mr. Ewart's motion for the total abolition of capital punishment; and, at the present moment, it is particularly interesting to put on record the opinions of a cabinet minister, Lord Goderich, now Earl de Grey and Ripon, filling the high office of Secretary for War.

"West Park, Ampthill, Beds, 8th Jan., 1853.

"My dear Sir,—My absence from London has most unfortunately prevented my receiving your letter until this morning, when it is too late, as you say that the execution was to take place to-day. Had I got it yesterday I would have gone up at once to see Lord Palmerston about it. I am truly grieved that it should have reached me too late, as it would have given me sincere pleasure had I been able to have been of any use in such a case. *I should certainly support Mr. Ewart's motion, as well as yourself; and this adds to my regret at not having got your letter in time.* If, by any chance, I can still be of any use, pray let me know. I must go to London next week, and I would see Lord Palmerston if it were not too late. I must thank you very much for having written to me about this matter, and I can assure

you that if at any time I can assist you in anything, it will give me every pleasure to do so.

"Believe me, very faithfully yours,

"GODERICH.

"To G. Hadfield, Esq., M.P."

Some, on perusing the above, will regret that the noble writer is not Secretary of State for another department than that over which he now most worthily presides.

Waddington was hanged on the day originally appointed for the execution both of himself and Barbour. The respite of the latter, whilst Waddington suffered, was not understood by the people assembled, who showed most unmistakeably the distinction drawn by the popular mind between the degree of moral enormity distinguishing the two murders.

In the winter of 1852-3, a fearful tragedy occurred at the quiet parsonage house of Frimley in Surrey. At the dead of night the family were assailed by a gang of burglars, four in number. They entered the bedroom occupied by the clergyman, the Rev. G. W. Hollest, and his wife, who displayed much presence of mind and great courage under most alarming circumstances; but Mr. Hollest making some resistance, one of the gang fired a pistol he carried, inflicting a

mortal wound. Four men were taken into custody for the crime, Hiram Smith, Samuel Jones, and Levi and Samuel Harwood. The Government offered a reward and free pardon to any one, not the *actual murderer* of Mr. Hollest, who would turn queen's evidence. Hiram Smith, the leader of the party, and a scoundrel of the blackest type, became approver, and gave evidence at the trial. The jury, however, gave little or no heed to his testimony, which tended, in fact, to exculpate himself, rather than to serve the interests of justice.

The principal witness was, of course, the bereaved widow of Mr. Hollest, whose noble conduct throughout obtained for her the most respectful sympathy and attention. She failed to identify Samuel Harwood, who, Hiram Smith's evidence notwithstanding, was acquitted. Levi Harwood and Samuel Jones were convicted, and sentenced to be hanged.

The jury, however, were strongly of opinion that Smith, and not Levi Harwood, had fired the shot which destroyed Mr. Hollest. That fact, if substantiated, would, under the terms of the Government reward, have disentitled him to any advantage he might derive from his treachery. The jury accordingly, on that ground, memorialized the Crown for a reprieve.

They regarded it, with good reason, as most uneven-handed justice that the greatest culprit should escape and his followers be hanged. They were mistaken as to the fact. It was Levi Harwood, as the dying confessions of the two condemned men proved, who fired the shot. But, although Smith had taken care to avoid that responsibility, it was he who organized the expedition, and was as much a consenting party as the unhappy young man who had committed the actual murder. He was kept in prison till the next assizes, and then, no evidence being offered by the Crown, was discharged.

I accompanied a deputation to the Home Office, who, under the same impression as the jury, thought that mercy might fairly be extended. Mr. Walpole, who, as Home Secretary, always exhibited a most earnest desire to act both justly and humanely in such cases, drew, I remember, a marked, and as I felt bound to admit, a very fair distinction between the acts of persons who, going committing a felony, proved by the nature of the weapons they carried that they were ready, if required, to proceed to extremities, and others who availed only of some weapon presented at the moment to protect themselves from arrest, or to defend themselves if resisted. "If," said the right hon.

gentleman, "one of these men had seized the poker, and dealt a fatal blow, I might then be disposed to interfere; but here is the obvious preparation to commit murder, if that be necessary, for the accomplishment of their purpose." But although public opinion, satisfied by the confessions of the men, went along with the execution of the sentence, it came to be known that Harwood had a past history which could not fail to excite pity. He had been leading from his childhood an irregular life. All at once he desired to reform. He presented himself at the gates of a reformatory, and begged for shelter and work. Alas! there was no room, and he was refused. He went again, but there was no room; he went a third time, but still there was no room. Weeping he turned away. In the world he had no friend till one came with Judas art to betray him to ruin; and he who had only asked for honest labour in England or her colonies, for want of one helping hand came to be hanged as a murderer.

Another case comes up to memory where murder was committed in connexion with an offence that the law holds to be a felony; but in that instance public opinion certainly did not sustain the Executive, and I always regarded

the refusal to respite one of the greatest mistakes committed by Sir George Grey.

In 1856, a youth named Murdock, about 18 years of age, was confined with another lad in the borough gaol of Hastings, in which town Murdock had committed some trifling theft. The arrangements of the said place of confinement would seem to have been specially devised to favour the escape of prisoners. The gaol was itself far from secure; and its keeper was an aged man, whose only assistant was a young woman, his daughter. It was not very wonderful that, under these circumstances, two active young fellows should be tempted to effect an escape, even although the law affixes to prison-breaking the penalties of felony. Murdock, watching his opportunity, when the old gaoler was off his guard, sprang upon him, by a sudden grip upon his throat rendered him insensible, and then, finding no obstruction, made good his escape from the prison. It is probable that, if attempted upon a younger man, the attack would have been far less serious than it was to the aged goaler of Hastings Borough Prison. To him it proved fatal, for his system never rallied from the shock. Murdock was soon re-arrested, at no

great distance from the gaol. Even on the supposition that he did not intend to kill the old man, still, as death had ensued as the result of a felony, the act was constructively murder in law, and for this the prisoner was tried. The point which perhaps told most against him was the statement of a fellow-prisoner that Murdock had shown him, some days before, how a person could be rendered insensible by a grasp upon the throat, and had proposed they should, by this means, escape together. The conversation so reported showed, of course, an amount of premeditation very unfavourable to the accused. On the other hand, it was tolerably clear that there was no actual intent to take life; probably Murdock was even ignorant of the danger his assault would involve. When he was told the old man was dead he expressed great sorrow, and even shed tears, saying, the "old gentleman had been very kind to him." And in this statement he persisted to the last. In accordance with the judge's ruling, the jury found a verdict of "guilty of murder;" but added a very strong recommendation to mercy on the ground *that they did not believe the prisoner intended to take life.* It was not believed either in Lewes or in London, that the sentence would be carried into effect, so no efforts were made for some days to

obtain a reprieve. But, as it became apparent that the Home-office was indisposed to interfere, some active steps were taken in the neighbourhood of Lewes, and well-signed memorials were forwarded, praying for the commutation of the sentence, a proceeding felt by all to be called for by the requirements of justice. One of the jury wrote most earnestly to Sir George Grey, in the following terms:—

". . . . Although we returned a verdict of "Guilty," it was my impression that the extreme sentence of the law would never be enforced; and I hear with dismay and sorrow, that the execution is appointed for Tuesday next. . . . . Who can for, one instant, imagine that the prisoner was actuated by any malice against the gaoler? Surely, sir, this is a case where the clemency of the Crown may be permitted to step in and save a fellow creature from a shameful death."

To this appeal, Mr. Waddington, on behalf of his chief, replied at some length, giving Sir G. Grey's reasons for declining to accede to its prayer. Said the Under-Secretary:—"To have done so, would have been to lay down the principle that the penalty of murder should not be inflicted in a case in which the destruction of life is not in itself the sole or even the

principal object in contemplation; but where the violence is resorted to, without regard to the consequences, as a means of accomplishing some other unlawful end, such as robbery, rape, or escape from prison. . . . . Cases of this kind, moreover, cannot be considered apart from the bearing they must have on others of a similar nature. . . . . "

In the above sage observations, three fallacies are apparent:—In the first place, not only was murder neither the sole nor principal object of Murdock, when he attacked the gaoler, but as the jury believed, he did not calculate upon a fatal result at all, the issue being,—however reprehensible the assault—a pure misadventure,—secondly, the moral sense of the community will never admit that prison-breaking can be fairly classed with robbery, or the atrocious offence of rape. If Murdock had escaped without using violence, and been captured, a very mild sentence would have satisfied the demands of justice, with, perhaps, a sharp rebuke to the corporation of Hastings from the presiding judge for taking so little care of their prisoners. But a conviction for rape would certainly have had a widely different result. In Mr. Hepworth Dixon's admirable biography of John Howard, is a story of some prisoners escaping

from a Swiss gaol. They were retaken and tried, but acquitted and set free because their act was in accordance with the noble instinct of a love for freedom ; their gaolers, however, being severely punished for their remissness. I commend this incident to Mr. Waddington's consideration before he again classes prison-breaking with rape or robbery. Lastly, that learned gentleman seemed to imply that Murdock was to be hanged not so much for the enormity of his own offence of murder and prison-breaking, as for the warning of other strong and active lads who might find only a feeble old man between them and freedom. As Judge Buller once put it to a prisoner before him, "You are not to be hanged for stealing a horse, but that horses may not be stolen." If every body who commits actual or constructive murder were to be hanged on this principle, why was anybody ever reprieved? I assume the prerogative of the Sovereign to exist for the purpose of bringing the practice of the law into something like harmony with a natural sense of justice as developed by each case that arises. And I will venture to say that never was the principle of justice more distinctly violated than in the execution of James Murdock for murder. But, if the law were against him, there were

some considerations put before the Home Secretary, touching the past history of the condemned boy, that might have pleaded powerfully on his behalf. The prisoner, who was not nineteen, had been, since he was twelve years of age, in the employ of the police as a spy. I need not remark on the corrupting influence of the associations into which such a life introduced him. One of the London police magistrates had once taken some interest in the lad and sent him to sea. On his return the police, who had found him useful and intelligent, persuaded him again to return to his old employment: that step was his ruin. His office became known, and he had to leave London. Possessing neither education nor character, he joined in the wanderings of a party of gipsies, and at Hastings committed the trifling offence for which he was confined in the borough prison. Thus to the agents of the law had he been indebted for his association with crime.

Many of the Lewes magistrates signed a memorial to Sir George Grey, and the Hon. Mr. Brand, one of the borough members, and a member of the Government, supported its prayer in person. As a last resource I went down into Wiltshire, and obtained a letter from the Rt. Hon. Henry Fitzroy, who had been

Under-Secretary when Lord Palmerston was at the Home Office, in which he strongly urged a re-consideration of the case. Sir George Grey and Mr. Waddington being absent, I took the letter at an early hour in the morning to Mr. Massey, who had succeeded Mr. Fitzroy; but Mr. Massey treated the affair as closed, and declined to interfere with the decision of his chief. At noon the same day James Murdock was hanged.

The second half of the year 1856 was marked by great severity on the part of the Home Office. The outcry raised at the reprieve of Somner, the excitement caused by the trial of William Palmer, and the defeat of Mr. Ewart's motion in the House of Commons, may perhaps have influenced Sir George Grey's line of conduct at that period. After the summer assizes Murdock was not the only criminal for whom mercy was earnestly besought in vain. At Dorchester a woman named Elizabeth Martha Brown was convicted and sentenced to die for the murder of her husband. They were an ill-matched pair; the husband being little over twenty, the wife nearly fifty years of age. That jealousy should have existed on her part is no wonder; and the husband's habits appear to have been calculated to

increase rather than diminish the irritation of the wife. Brown was a carrier by trade, and frequently returned home at a much later hour than his wife considered necessary. On the morning following one of these journeys the wife roused her neighbours with the intelligence that her husband had been killed by a kick from his horse. They found on entering the house that the skull of the deceased man was battered in; and there were no marks to indicate that this had occurred, as the woman stated, in the fields, although there were evidences that it had taken place after he had entered the house.

The evidence collected, and afterwards produced on the trial, although purely circumstantial, was tolerably conclusive, as proving that death had been caused by an attack made on the deceased after he had seated himself to unlace his boots in the kitchen, and that a hatchet was used as the instrument with which the deed was accomplished. Upon this evidence Elizabeth Martha Brown was convicted and sentenced to death.

The conduct of the deceased man towards his wife becoming known, efforts were made to obtain a commutation of the sentence. For some time after her conviction the prisoner per-

sisted in denying her guilt, although she made a wholly different statement from that with which she first endeavoured to shield herself from suspicion. After, however, several conversations with the chaplain, the Rev. Mr. Clemetson, a very aged and most benevolent man, Martha Brown became much softened in her manner, and at length made a full confession, to which she adhered to the end. She said:—

"My husband, John Anthony Brown, came home on Sunday morning, the 6th of July, at two o'clock, in liquor, and was sick: he had no hat on. I asked him what he had done with his hat; he abused me, and said, 'What is that to you, d—— you?' He then asked for some cold tea; I said, I had none, but would make some warm; his answer was, 'Drink it yourself, and be d——d.' I then said, 'What makes you so cross?' Have you been at Mary Davis's? He then kicked out the bottom of the chair upon which I had been sitting, and we continued quarrelling until three o'clock, when he struck me a severe blow upon the left side of my head, which confused me so much that I was obliged to sit down! he then said (supper being on the table at the time), 'Eat it yourself, and be d——d,' and reached down from over the mantel-

piece a heavy hand-whip with a plaited head, and struck me across the shoulders with it three times, and every time I screamed out; I said, 'If you strike me again I will cry murder'; he replied 'If you do, I will knock your brains through the window,' and said he hoped he should find me dead in the morning, and then kicked me on the left side, which caused me much pain; he immediately stooped down to unlace his boots, and, being much enraged, and in an ungovernable passion at being so abused and struck, I seized a hatchet which was lying close to where I sat, and which I had been making use of to break the coal for keeping up the fire to keep his supper warm, and struck him several violent blows on the head—I could not say how many—and he fell at the first blow on his side, with his face to the fireplace, and he never spoke or moved afterwards. As soon as I had done this I would have given the world not to have done it; I had never struck him before, after all his ill-treatment; but, when he hit me so hard at this time, I was almost out of my senses, and hardly knew what I was doing."

Whilst there was nothing at all to cast doubt on this statement, and the officials at the gaol were convinced, by the prisoner's demeanour and the circumstances under which it was made,

that it was the truth, there were some circumstances which helped to corroborate it.

One of the witnesses deposed to having heard shrieks, which, from the nature of the injuries, could not possibly have come from the deceased, thus confirming the prisoner's statement that she had been first assaulted.

It was considered that these circumstances might fairly reduce the crime to manslaughter, or, at all events, be pleaded in mitigation of the sentence. Memorials were accordingly forwarded, and their prayers were sustained by several Members of Parliament. Finally, the venerable chaplain went up to London, personally to plead for mercy; but Sir George Grey was out of town, and Mr. Waddington would not interfere.

The unhappy woman died with marvellous firmness, walking unsupported for a distance of a hundred yards, from the gaol to the gallows, and standing firm as a soldier on parade whilst the hangman completed his preparations.

An incident of the discussion excited in the local papers by the condemnation of Martha Brown, was the appearance in the *Dorset County Express* of the following verses composed by a little girl, thirteen years of age, the daughter of a Dorchester tradesman. The excellent spirit

they breathe, and the youthfulness of their author, induce me to give them to my readers:

"Poor sinning one, thou art condemned! thy sentence dread is passed!
Allowed to live a few more days, but they must be thy last;
For then the murderous halter will around thy neck be flung,
And one of God's own creatures by her fellow will be hung.

"They tell me that 'tis God's decree, direct from heaven's bright throne,
That whoso takes his brother's life shall forfeit then his own:
I many times have read it in His holy, blessed Word,
And I dare not breathe a murmur 'gainst the justice of the Lord.

"But when the Saviour came on earth, how gentle was His sway!
How tenderly He dealt with those who erring went astray!
How lovingly at last He raised His dying eyes to heaven!
And prayed that His murderers by God might be forgiven!

"And have we then—poor, mortal men—no mercy for each other?
No pitying hearts to bear the woes, the sins of one another?
Shall we deny that blessing which our Father gives to all,
And take away that precious life which we can ne'er recall?

"I would not palliate the crime—no, God of heaven, forbid!
The stones would cry against me, and justly, if I did:
My soul recoils with horror, and I tremble all the while
To think a gentle woman could commit a crime so vile.

"Yet, in a few short years, at most, her mis-spent life would end.
And death a ready summons to the captive one might send;
Whilst a heavy-burden'd conscience would inflict a deadly smart,
And repentance, pure and holy, might soften her poor heart.

"I gaze from out my window at the lonely prison room,
Where in misery and solitude she now awaits her doom;
She cannot think, she cannot weep, she cannot even pray,
Though the short and precious moments are flitting fast away.

"To think that she was once a child, as happy as could be,
Enjoying God's own sunshine—fair, innocent, and free!
But oh! how dreadful is the sight to gaze upon her now,
With the horrid crime of murder imprinted on her brow!

"God help thee, erring sister, from His throne above the skies,
And grant to thee that mercy which thy fellow man denies.
Oh! think upon the Saviour—He will bear for thee thy load,
Will beg for thee forgiveness from His Father and thy God."

I commenced my narrative by describing the painful impression produced in childhood by witnessing the agony of one whose brother had been sentenced to death. Whilst avoiding, as far as possible, the distressing scenes connected with capital punishment, in its relation to the friends of the condemned, there were occasions when it was necessary for me personally to behold their sufferings under the torture of suspense, or the dark gloom of the hour of execution. The misery inflicted on the relatives of convicted murderers always appeared to me one of the most fearful incidences of the death penalty. Very terrible was it to witness the mental sufferings of one family, especially, in nearly the last case that came under my notice during the period of my active connection with the Society for the Abolition of Capital Punishment.

My good offices were first invoked by a twin brother of the condemned man. He had obtained my address from my ever-ready coadjutor, Mr. Albert Megson, of Market Street, Manchester, in which city I was then staying. The prisoner, John Hannah, had been condemned at the York Winter Assizes, held before Sir William Erle, for the murder of a woman named Jane Banham, who had previously lived with

him as his wife, and was the mother of two children. Hannah had been apprenticed to a respectable tailor in Manchester, who spoke of him as having been a well-conducted, steady lad, until he unfortunately became acquainted with a company of strolling players, and in an evil hour was induced to join them. Jane Banham was several years his senior, and the principal dancer of the company. She was a married woman, but her husband had left her and gone to Australia. Her father was an actor connected with the troupe. It was not disputed that Hannah had loved the woman, and the children born to them, most passionately. It was in fact this ardent affection that led to the final catastrophe. In December, 1855, Hannah and the woman parted company, she going to live with her father, and he continuing his trade as a tailor in Manchester. In the June following they met at Halifax, when Hannah endeavoured to persuade Banham again to live with him. She refused, and then he used an expression to the effect, "That he would be hung for her yet," which at the trial was quoted as proof—and it was the only attempt at proof—of premeditation.

On the 11th of September, 1856, the prisoner went to the White Horse public-house at Armley,

near Leeds. He there made some inquiries respecting the deceased, and at length had an interview with her in the parlour of the Malt Mill inn. He had previously taken his own child, three years of age, into the parlour, and begun to fondle it. The conversation between the prisoner and the deceased related to her returning to live with him; and he appealed to Mr. Hope, her father, on the subject. Hope said they must settle their affairs between them, and left the room. As he did so his daughter appeared at the front door, and expressed a desire to leave the house, observing to Hannah, "I don't want to have anything more to do with you, and I will not." The prisoner took her into the parlour, and the door was sharply closed. In the bar four persons were at that time assembled; and shortly after the door was closed they heard a noise, as of the rattling of doors and the scuffling of people. One of the persons in the bar heard something like a scream or a groan, whereupon they rushed into the parlour, and found Jane Banham on the floor. The prisoner was kneeling on her, and in the act of cutting her throat with a razor. One of the persons in the house exclaimed, "What do you mean, you scoundrel?" and he replied, "I mean murder." The prisoner was dragged off, and the woman

got up; but so horrified were the people present, that Hannah was allowed to leave the room. He walked out of the house, his hands and shirt dabbled in blood. The deceased was at first placed in the air, on a chair, but was afterwards taken into the house. Two surgeons were sent for, and one came directly. The centre of her throat was found gashed from ear to ear. The wound was eleven inches long, and the razor had penetrated through the gullet to the backbone, the carotid artery being partly severed. This was shortly after twelve o'clock; she never spoke, and at two o'clock she expired.

Of the facts of this shocking tragedy there could be no dispute; but the previous character of the prisoner, the motive which had impelled him to seek the woman and his children, and awakened the wild frenzy that had apparently deprived him of reason when he committed the unpremeditated deed, were all urged, though in vain, by counsel for the defence. He was found guilty, and sentenced to death. It was noticed, however, that although the judge expressed his concurrence in the verdict, which was doubtless a correct one according to the strict requirements of the law, his lordship did not, in passing sentence, tell the prisoner that there was no hope of mercy for him, nor did he close with

the pious expression usually appended to the legal formula on such occasions. The whole address of the judge did not occupy, although given verbatim, more than nine lines in the local newspaper. The case was altogether one that seemed to promise well for an effort to save the life of the condemned man, when compared with others that had received favourable consideration.

Our first step was to forward a statement of the points that seemed to justify an appeal for mercy, as elicited at the trial, and by subsequent enquiries.

The memorial, after recapitulating the evidence of the murder, went on to say:—"Prisoner rushed frantically from the house, was pursued, captured, and immediately admitted his guilt. The learned counsel who prosecuted appears with much fairness to have admitted that certain remarks of the prisoner indicated a peculiar state of mind at the time of committing the crime, and the statement of witnesses tended to confirm this view of the case. Thus, John Hope, father of deceased, says: 'Prisoner's eyes, on the day of the murder, had a peculiar glassy expression, but he seemed as if nothing had happened. At the inquest there was a marked difference in his

demeanour; he was in great grief.' To William Blanshard, another witness, he said, 'That's a clean trick for a madman to do, just come out of an asylum.' James Slater, another witness, met him at the inn door, and says: 'He appeared in a very excited state. He appeared to be talking to himself, and said, "I have had my revenge; they may do what they like at me; I am ready to die."' George Sanderson, also a witness, says: 'He rambled in his talk, and said he had taken the Alma himself.' Joseph Haley, police officer, says: 'He knocked himself about at the Court House.' W. Johnson, gaoler, at Leeds, says: 'He said he hoped there would be nothing serious.' To Oliver Kell, the coroner's officer, and also in his statement when under examination, prisoner said he had been drinking, and he also denied his intention to commit murder, and said he loved deceased and his children very dearly.

"These facts, we submit, justify the impression that the prisoner was not altogether responsible for his actions when he committed the crime. He made a statement to one of the witnesses above referred to (William Johnson) to the effect that the offence was unpremeditated, that the razor was first drawn to frighten deceased into compliance with his wishes; that a struggle ensued;

that prisoner received a wound from the razor in his hand, on which two cuts were apparent; and that not till then the fatal act was perpetrated. As evidence apparently unfavourable to the prisoner, it was urged that prisoner's carrying a razor in his pocket, and having used a threatening expression when he sought deceased at Halifax, in June, were indications of guilty premeditation. But we feel assured that a hasty threat of a kind very common among persons of prisoner's class, uttered three months before the murder, will not be allowed to exercise an unfavourable influence on your decision; and, as to the razor, we have made some inquiries as to the practice of working tailors, and find that when 'on tramp' they always carry the implements of their trade—scissors, thimble, &c.—and their razor along with them, and all these were found on the prisoner. There is then no ground for using this circumstance as a proof of premeditation. The intense affection manifested for deceased and her children by the prisoner may be cited as further proof that it was under a morbid condition of mind only, occasioned by unrequited affection and bitter disappointment, that the crime was committed. The father of the deceased and other witnesses proved that 'prisoner was much attached to

deceased;' 'that he had proposed to take one of the children, so as not to trouble her longer with the care of both;' that he wrote on the 6th of September, five days before the fatal event, 'I pray God bless you and my dear children;' that he expressed the greatest affection for deceased, and entreated her father earnestly to induce deceased to return to him; and that he spoke affectionately to her when they met at Armley. Whilst this evidence was being given in Court, the prisoner wept bitterly; Mr. Justice Erle, too, in summing up remarked, 'He had no doubt but that prisoner was earnestly attached to deceased, and that he went to Armley with the intent—the earnest intent—of inducing her to return to live with him.'

"We have also obtained the following statement from a young man who lodged with prisoner till within a month of his committal. This can, if needful, be attested upon oath:—James Wilkinson, of Openshaw, near Manchester, screw-bolt maker, says: 'John Hannah was my fellow-lodger for eight months, and until about a month before his committal upon the charge of murder. His mind, during that time, was in a very agitated state. We occupied the same bed. He did not sleep regularly, but would waken me at all hours, and induce me to

get up and take a walk in the streets. This we often did. His conversation was constantly about Jane Banham and his children, especially the eldest child, a boy, of whom he appeared passionately fond. There was a child in the house whom he would take in his arms and kiss it, and then, as though it reminded him of his own, would burst into tears. He had work, but could not sit to it. He was a fine young man when he came to me, but grew pale and thin with fretting. He afterwards lodged elsewhere; and the man who then slept with him refused to do so any longer, on account of his excitement and restlessness.'

"We enclose, in addition to this statement, a document testifying to prisoner's general good conduct, signed by eighteen respectable persons who have known him for periods of from three to twenty years. He is spoken of as a simple, kind-hearted youth, and one singularly unlikely to commit a deliberate act of murder.

"We lay this evidence before you, believing that it establishes the fact that prisoner committed the act for which he is condemned to die without premeditation, and in a moment of uncontrollable frenzy provoked by sudden disappointment, acting on a mind weakened by long-protracted grief. We respectfully ask whether

a distinction should not, in justice, be drawn between murder so perpetrated and that variety of the crime which is committed with malicious premeditation, or to gratify some purely selfish purpose on the part of the offender."

The aged father of the prisoner, a Peninsular veteran, was sanguine enough to believe that an appeal to the Duke of Cambridge, from an old soldier, might induce his Royal Highness personally to interest himself in the case. He accordingly penned the following simple memorial to the Queen; and, by the liberality of two gentlemen, Mr. George Wilson and Mr. John Fildes, of Manchester, was enabled to travel to London in the hope the Duke would support its prayer.

"*To Her Most Grasious Magesty.*

"Manchester, December 17th, 1856.

"This is the humble pettion of William Hannah to your Grasious Magesty, praying that you will spare the life of my unfortunate son, John Hannah, that is now lying in York Castle under the sentence of deth, for the murder of Jane Banham, at Armley, on the 11th of September. Your humble pettioner served in the Royal Artilrey for twenty years, and was at the taking of Flushing in 1809, and shortly

after joined Lord Wellingtons armay, whare i was engaged in the prinsebel ingagements in that contray; and for my service your most Grasious Magesty granted me a shilling a day and a medal with six clasps; i also lost a son in the Canidian war, fighting against the rebels. My unhappy son's twin brother as lastly been discharged from the 7th Royal Fusiliers at Chatham, with a pension of 8d. per day. He landed in the Crimea with the expedton, and fought with his reghment at the Alma, and at the Battel of Inkerman, and was severely wounded in the assult of the Grait Redan, and was presented with a medal and three clasps from your most Grasious Magesty. i also have a nother son that is folowing the steps of his father and two brothers; he is serving in the 5th Royal Lancashire Militia. Your humble pettioner hopes that your most Grasious Magesty will take it into your consideration the service that this familey as done for thare Queen and contray, and spare the life of my unfortunate son, for my sake and that of his poor mother, that was with me through the Peninsular War. This is the humble and sincere wish of your humble and faithful servent, and father of my unfortunate son,

"William Hannah."

Certainly if the services of the family to the State could be pleaded in stay of execution, poor old Hannah might have hoped for success. But he could only obtain a promise from the Duke's Secretary that the document should be forwarded to the Home Office, and came back to Manchester to wait in torturing suspense the result of his efforts and others that were in progress. Meantime I had visited York, and there by the help of Mr. Joseph Spence, of that city, then, as on all occasions, ready to sustain such exertions in behalf of our cause, I was able to see nearly the whole of the jury who had condemned Hannah, one or two who lived at a distance from the rest being sought out by another gentleman. The result was that they all united, with perhaps one exception, in memorialising the Home Secretary to spare the prisoner's life.

Passing near Dewsbury, I found that Hope, the father of the murdered woman, was there, and determined to obtain his signature also to the prayer for mercy. To his honour be it said, that he signed it heartily and without hesitation, at the same time fully endorsing the opinion that the crime was the unpremeditated act of a mind overwrought by unreturned affection and intense love for the children. The jury's and other

memorials were forwarded to London a day or two before the one fixed for the execution. Sir George Grey proved to be at Falloden, his seat in Northumberland ; but doubtless the papers were sent down to him, a promise to that effect being given to Mr. Gilpin, who called at the Home Office. It was not till the Saturday on which Hannah was to suffer at noon, that we heard in Manchester that our efforts had been fruitless. The usual stereotyped letter, " regretting the Home Secretary could see no reason to interfere with the course of the law " came to hand, and told us that the extenuating circumstances of the case itself—the services of the old father—the precedents established by past leniency, had all weighed for nothing, and that the inexorable fiat was *Death*. The calm dignity and simplicity of old Hannah had excited in my mind a great interest for the aged soldier. His wife had lost her reason when the news of her son's imprisonment first reached her, and she had not regained it, a merciful circumstance to her, but a sore addition to her husband's troubles. I knew that several of the family had gone to York to bid farewell to the condemned man, and that the father was probably bearing his grief alone. So it seemed well to share his sorrows at that awful mo-

ment, and accordingly I visited his humble lodgings. The woman of the house and some of her neighbours were grouped round the kitchen fire, but with much kindly feeling they retired and left us to ourselves. My poor friend had that morning received the sad tidings by letter from his daughter, who had not returned from York; but he did not know at what hour his son was to suffer. For some time we tried to exchange expressions of comfort; but the effort was too much for both, and so we became silent. At length a glance at my watch showed that all must be over. Then, as gently as I could, I told him that his poor boy was beyond the reach of pain or sorrow—gone where the fiat of justice was tempered by the unerring wisdom of Infinite Mercy. But the announcement was a terrible one, so terrible that he could not speak, nor look up, but sat bowing his head down—his tall, soldierly form convulsed with agony. Then, suddenly, the old man lifted up his face, and said, "*His soul has gone to God, and 'tis all well.*"

CHAPTER XIV.

The Royal Commission.

WHILST engaged in publicly advocating the abolition of capital punishment, I found myself opposed by three classes of objectors. One set met me on religious grounds, and quoted law and gospel to prove that the Supreme Being had ordained that man should be his brother man's executioner. Like the Scotch Synod in its penitential recognition of the national sin comprised in the abolition of the punishment of death for witchcraft, excellent persons saw with prophetic eye the certain judgment of heaven as the penalty for sparing the life of the murderer. There is an old story of a sailor who, being shipwrecked upon an unknown shore, set out in search of its inhabitants. His heart was soon gladdened by the sight of a drunken man, for in him he recognized traces of civilization ; but when, shortly after, he beheld a body swinging in

chains from a gibbet, he cast himself upon his knees, and in an ecstasy of devotion thanked Heaven that he was cast upon a *Christian country*. That pious mariner has many representatives amongst the people yet; though in the House of Commons the sect vanished with the departure of the venerable Sir Robert Harry Inglis, I believe that time will be the certain destroyer of this creed, and that to time alone must its destruction be left.

The next class regarded the punishment as appropriate and natural, and therefore right. They had little to say about man's fallibility, but much about retributive justice. They were rather, however, supporters of capital punishment in the abstract than in practice, and perpetually fell out in detail with the system they sustained in argument.

I had a public discussion with a gentleman once, a most worthy and sincere representative of these peculiar opinions. I know not what fearful epithets, biblical and secular, were not launched against the invaders of the high prerogative of the law to take life for life. The next time I met my honoured opponent he was going about zealously working to obtain a reprieve for a man condemned for murder. But I am sure he still held fast to his opinions.

The third and last class of opponents were those of whom Sir George Grey is still the principal representative in the House of Commons. They admitted, in degree, nearly everything that could be said against capital punishment, but they believed worse would come to pass if they abolished it. They never pretended that it was part of the Christian economy, nor did they care one straw about its justice or injustice; but, allowing it to be occasionally open to the charge of grave injustice, gross inconsistencies, and all sorts of objections, they insisted on retaining it, because they believed it possible that, at some time or other, some one or other might do something or other which the law defines to be murder, unless he knew there was a remote chance that he would come to be hanged for it. These are the backbone of the opposition still as they were seven or eight years ago.

Sir George Grey, however, goes a step further. He does not feel sure that the lowest and most degraded class are those most benefited by the occasional infliction of the death penalty, but he has a very strong faith in its salutary effect on the better and more thoughtful class above them. In fact he pays you, my readers and myself, the compliment of suggest-

ing that we are the "wretches" needing the "hangman's grip" to keep us in order. I have read of an incident in connexion with our Indian wars that seems to me to afford a very fair illustration of the present Home Secretary's admiration for the deterrent effects of the punishment. In the citadel of an Indian prince was found the instrument by which he put criminals to death. It consisted of two large plates of iron, one lying flat on the ground, the other, of great weight, suspended in the air. The culprit was laid on the lower plate, then the ropes holding the other were cut, and down it came, smashing out the body as flat as a pancake. Finally it was taken out and dried in the sun, to be exhibited ever after as a terror to malefactors. The theories of the English minister and the Indian prince are founded on the same idea, though the former carries his out in the less offensive manner.

It is conceded by most persons that inflicting the penalty is open to many grave difficulties; that occasionally great criminals escape, because juries dread the consequence of a capital verdict; that, moreover, life has been, and may again be sacrificed through mistaken or false evidence; that a capital conviction almost inevitably awakens a feeling of pity for the

culprit, rather than a healthy detestation of his crime ; that, in short, public opinion continually revolts against the law, whilst it is extremely difficult to bring the administration of the law into strict harmony with public opinion. To a greater or less extent all admit the existence of these difficulties, however persistently they cling to the institution as a disagreeable necessity.

During the agitation for the *total* abolition of capital punishment, which, dating from Mr. Ewart's first motion, has extended over twenty-five years, laying aside purely religious and moral considerations, the controversy has been practically limited to the proposition on the one side, that "capital punishment is the penalty best calculated to deter from crime, and is, therefore, a safeguard to be retained," and on the other that "capital punishment is *not* the penalty best calculated to deter from crime, but, on the contrary, has the effect of rather conceding impunity to crime, besides being attended with other evils and dangers, for which reasons it ought to be abolished." It will at once be evident to the reader that the whole controversy really resolves itself into one of evidence *pro* and *con*, — evidence of personal experience, of statistics, of history, of facts as

developed from time to time in the process of administering the law. It has happened that on every occasion of Mr. Ewart's motion being discussed in the House of Commons since 1847, the same person has been Home Secretary. Sir George Grey's tendency has, for the past twenty years, been to gravitate towards the Home Office whenever a change of government has placed his party uppermost. As that right honourable gentleman has, therefore, by circumstances come to be considered the embodiment of the opposition to the abolition of the death penalty, it may be well to glance for a moment at his character and tendencies. I have heard it said that Sir George Grey is a man without a heart. I do not believe this to be true, for I have often seen evidences that the hard-set official-moulded face could not conceal the emotions of a humane spirit struggling beneath. But when a man is compelled by his position to sustain for years a conflict between his own better nature and a perpetual volley of humane importunities on the one side, and his sense of duty as the administrator of the law on the other—for in the very nature of things he has become, as Mr. Bright put it, "the whole bench of judges,"—it is very probable that a nervous dread of doing wrong may by slow

degrees deprive him of the power of doing right.

I do not believe it would be possible to find a Home Secretary who would have gained less reputation in twelve years for wisely administering the law in this particular than Sir George Grey; nor do I believe it possible, contradictory as it may seem, that any man could give more constant, assiduous, and painful attention to every point urged in any case that the most humble suppliant for mercy might bring before him. Truly the post is no sinecure. In London, deputations hunt him down like a deer; they watch the private entrance to the Home Office like revenue officers snaring a false coiner; they sight his exit as he escapes by the front staircase; raise the hue and cry down Parliament Street; circumvent him as he darts through the members' entrance, and button-hole him in the lobby; or, if once safe inside the House, there is the deputation's representative squatting like the tempter at Eve's ear upon the front Government bench, ready to whisper insiduous suggestions that sadly mar his peace.

If he flies to Falloden, ten to one his enemies calculate on getting an interview more easily there than when he is guarded by the well-practised doorkeepers at Whitehall. They,

doubtless, hope to be received *en famille*, and, discussing their mission in a free and easy chat after dinner, to find the country gentleman at home a softer-hearted and more impressible individual than the cabinet minister in London. There are Spring Assizes whilst Parliament is sitting; there are Summer Assizes just as the grouse tempt him northward; there is a Winter Assize now during the recess; and there is the Central Criminal Court always.

The week is full of woes, and even the Sabbath brings him no rest. If wearied out with reports from judges, and appeals all day long from members of Parliament and the philanthropic generally, he has retired to rest, has not his valet summoned him to a hasty toilet that he might receive a last remonstrance at two o'clock in the morning? Is it wonderful that he should come to regard all this as so much persecution, and meet it with a stern negative as his only means of resistance; but is it not more surprising that he should not have grappled with the whole question long ago, and endeavoured to bring the penalty, if retained at all, into something like harmony with public opinion? "The rule to be observed is," said the honourable gentleman in 1856, "so to administer the law as that public opinion may

go along with its enforcement." The reader of the foregoing narrative will be able to judge for himself how far this admirable sentiment has been practically recognized by the speaker during his administration of affairs at the Home Office. Nor has a single step ever been taken by him in Parliament, so far as my memory serves me, to mould the law into harmony with public opinion. Has this been owing to a latent conviction that the whole system might be shaken or overthrown if once authoritatively brought up for critical examination?

But the year 1864 was marked by events that hastened affairs to a crisis. The execution of Samuel Wright, in the teeth of public opinion, for an offence that would probably be denominated murder in no other civilized country, without even the form of a trial, or the slightest means of defence, upon the *ipse dixit* of a judge whose sage opinion was founded upon *ex parte* depositions taken before the police magistrate, and after every class of the people had in turn prayed that his life might be spared—this case brought home to men's minds the conviction that not in the humane professions of the law's administrators, but in a radical alteration of the law itself, was alone to be found safety from judicial error.

Following rapidly on that of Wright, came the case of George Hall, sentenced at Warwick for shooting his faithless wife at Birmingham. Again the conflict raged, the press, without exception, on this occasion, taking part against the law. More than sixty thousand persons of all ranks signed memorials on Hall's behalf. It seemed as though every available influence was exhausted ; but still Sir George Grey refused to interfere. He sent a long letter to the Mayor of Birmingham, setting forth grave and cogent reasons for the refusal. The execution was to take place on Monday, the 14th of March. On the preceding day (Sunday) another effort was made. It was something very solemn and secret, no doubt, for its exact nature has never been made public; but the same night a messenger took down a reprieve to Warwick, and, the day after, another long epistle gave excellent reasons for the reversal of the first decision.

The respite of Jessie M'Lachlan, in the previous year, in Scotland, and the clever trick by which Townley was rescued by his shrewd attorney, formed, with those of Wright and Hall, a group of cases that served as the best possible grounds on which to demand that Mr. Ewart's motion should receive more respectful consideration than Sir George Grey

had accorded to it on previous occasions. Though not put quite so broadly, the question was undoubtedly uppermost, whether, if the Home Secretary did not consent to amend or abolish the law, it might not be desirable to change the Home Secretary. The Cabinet, too, contained men whose opinions must have been well known to their colleague as directly opposed to capital punishment. One statesman, high in office, who has been, and may again be, a Prime Minister, the present noble Secretary of State for Foreign Affairs, Earl Russell, has recently put forth his views in the following terse but comprehensive language:—

"For my own part I do not doubt for a moment either the right of a community to inflict the punishment of death, or the expediency of exercising that right in certain states of society. But when I turn from that abstract right and that abstract expediency to our own state of society—when I consider how difficult it is for any judge to separate the case which requires inflexible justice from that which admits the force of mitigating circumstances—how invidious the task of the Secretary of State in dispensing the mercy of the Crown—how critical the comments made by the public—how soon the object of general horror becomes the theme of sym-

pathy and pity—how narrow and how limited the examples given by this condign and awful punishment—how brutal the scene of the execution—I come to the conclusion that nothing would be lost to justice, nothing lost in the preservation of innocent life, if the punishment of death were altogether abolished. In that case a sentence of a long term of separate confinement, followed by another term of hard labour and hard fare, would cease to be considered as an extension of mercy. If the sentence of the judge were to that effect, there would scarcely ever be a petition for remission of punishment, in cases of murder, sent to the Home Office. The guilty, unpitied, would have time and opportunity to turn repentant to the Throne of Mercy."

In addition to Earl Russell, the Right Hon. Milner Gibson, Earl de Grey and Ripon, and the Right Hon. Mr. Villiers, may be numbered amongst Mr. Ewart's followers, whilst other members of the Cabinet are presumed to be favourable to extensive alterations in the existing law. The debate on the 3rd of May, 1864, exhibited a remarkable unanimity of sentiment between men of the most adverse and varied shades of politics. Mr. W. Ewart, the Hon. G. Denman, Mr. Neate,

Mr. Bright, Sir F. Crossley, and Mr. Hibbert, from the independent Liberal benches, found worthy coadjutors in Lord H. Lennox, Mr. Mitford and Mr. Maguire on the Conservative side of the House, whilst Sir George Grey had for his allies such fossilized specimens of Parliamentary wisdom as Mr. Newdegate, Sir John Walsh and Alderman Rose. Two other speakers in that debate deserve special notice. From the side of the Home Secretary, on the front Government bench, rose Mr. Gilpin, then a member of the Administration, to support Mr. Ewart,—an assertion of independence, not however surprising to those who had known the honourable gentleman's past services to the cause of abolition. Mr. Roebuck, too, spoke, but less as it seemed to oppose than to criticize in his usual cynical spirit. Here let me say that I once received from the erratic representative of Sheffield, a letter in which he distinctly asserted his approval of the abolition of the death penalty on the ground that its retention favoured the escape of guilty persons. The result was, that Mr. Ewart's motion for leave to bring in a bill to abolish capital punishment was withdrawn,—so too was Lord Henry Lennox's amendment for the appointment of a select committee, the Government consenting to Mr. Neate's proposal,

for an address praying the Crown to appoint a Royal Commission to inquire into the whole subject. It is only right to say, that nothing could have been fairer than the selection of the Royal Commissioners. No one who glances at their names will doubt for a moment that their inquiries have been conducted with a resolute determination to hear all sides with perfect impartiality. The Commissioners appointed were the Duke of Richmond, chairman; Lord Stanley, M.P.; Mr. Waddington, the Under Secretary of State for the Home Department; Sir John Coleridge, Dr. Lushington, Mr. Gathorne Hardy, M.P., Mr. Justice O'Hagan, the Lord Advocate, Mr. Bright, M.P., Mr. W. Ewart, M.P., Mr. Neate, M.P., and Mr. G. W. Hunt, M.P. As the investigations of the Commission have been strictly private, we can only speculate loosely as to their probable scope and result. Perhaps the debates in Parliament, out of which the appointment of the Commission arose, may be assumed to foreshadow to some extent the ultimate issue. And there can be no doubt, that, in a strictly judicial sense, the opinion of a commission, nominated fairly by the Government, is far more authoritative in its judgment than a committee selected by the House of

Commons, and subject to all the delays and disturbances arising from other claims upon the attention of the individuals composing it. The decision of a commission can hardly be rejected by the Government, whilst the report of a committee may be disregarded at pleasure. We will assume, therefore, that some great change in the law relating to capital offences will be recommended by the Commission and adopted by the Government. Practically the inquiry has had to do with the crime of murder alone. By the Criminal Law Consolidation Acts of 1861, all offences, save murder and treason, ceased to be capitally punished in England and Ireland; and in Scotland the penalty is obsolete for every other. But, however satisfactory, in some respects, has been the amended law, it has introduced one source of embarrassment in relation to the passing of capital sentences. Formerly the judge could, if he pleased, avoid the solemn farce of passing the sentence of death, in cases where it was not likely to be carried into effect, by simply ordering it to be recorded, the subsequent disposal of the prisoner being ordered by the Executive. But the new law deprived the judges of all discretion, and compelled them to pass sentence formally whereever there was a conviction for murder. This,

especially where the prisoner is a woman charged with infanticide, has proved to be neither more nor less than a solemn mockery, whilst cruelly terrifying the wretched culprit, who cannot understand that the grave dignitary, whose awful utterances condemn her to die, knows all the while that her life is as safe as his own. It may be supposed that this accidental error in an otherwise substantially good and useful legal reform, will now be rectified. At such a step Sir George Grey himself hinted in his speech. The reader of the foregoing chapters will perhaps, however, expect far greater changes than this, if the recommendation falls short of total abolition. He will anticipate that the penalty for infanticide will be altered to a term of imprisonment, thus bringing the law into harmony with long-established practice; and, if he bears in mind the story of Sarah Ann Hill, he will not be likely to desire that the life of a woman, convicted for that offence, shall be taken or spared at the discretion of a judge. But if the murder of an infant is not to be punished capitally, at what age is the line to be drawn? It is now sixteen years since the last execution took place for child-murder; and the reprieves of Caroline Sherwood, Elizabeth Harris, and Celestina Somner, all seem to point to the con-

clusion that the death-penalty can never again be inflicted in such cases as these. The Commissioners may fairly ask themselves if it is worth while to run the risk of periodical encounters between public opinion and the law, merely to retain on the statute-book a penalty that is never inflicted. The same remark applies to the case of women pronounced pregnant, and it may be hoped that by their action the Commission will render all discussion upon these cases needless for the future.

The question of insanity, if considered by the Commission, will present graver difficulties than the class of cases above mentioned. There is a natural and not unreasonable jealousy, lest by admitting too readily the plea of mental unsoundness, the law should seem to lower the standard of moral responsibility. On the other hand, it is evident that the present definition of insanity does not satisfy the public sentiment. Frequently it is relaxed in practice though upheld in theory; whilst the cases I have given in the foregoing chapters demonstrate that its rigid application is liable to make the law an instrument of cruelty and injustice.

The reader will have before his mind the recent alteration of the law, which provides for the regular examination of a prisoner, if *after*

trial he shows symptoms of insanity. It is singular that the county in which occurred the memorable Townley case, should have been the very one in which the new act was first, and most usefully, applied, the convict being in consequence transferred to a criminal lunatic asylum. But this measure cannot meet such cases as those of Buranelli, where the fit of insanity was in all probability cured by the treatment to which he was subjected *after* the murder.

Whether a man is habitually insane, or insane *at the time he commits the crime*, is the point to be decided; and on this alone must the court who tries him come to its conclusion. I throw out, merely as a suggestion for consideration, and without expressing too decided an opinion as to its practicability, whether a *reasonable doubt* of the prisoner's sanity might not be permitted to regulate the verdict, without, as at present, requiring the defence absolutely to prove the incompetence of the prisoner to decide between right and wrong. Otherwise the alternative seems to lie between some radical change in the legal definition of insanity or the total abolition of the penalty that really creates the difficulty.

The death penalty will probably be abol-

ished in all cases of merely *constructive* murder. I refer specially to those involving an accidental killing attendant upon the commission of felony. Up to this point public opinion will need little stimulant or guidance, for all reasonable men have by this time probably gone so far in the direction of abolition. Two classes remain to be considered. The first where murder is committed without "premeditation," and under the influence of rage or excitement; the other, murder, cool, calculating, and deliberate. To the former belongs the case of Samuel Wright; to the latter that of William Palmer. It will be for the Commission, if it does its duty, to define the term premeditation, and to say for what period the guilty purpose must be shown to exist to constitute premeditation; further, whether it is to rest with the prosecutor to prove a pre-existent intent, or whether on the defence shall be thrown the burden of proving that the act was devoid of preparation and purpose. If the latter course is pursued, there will, again and again, arise the necessity for appealing after conviction to the Executive, on the ground that some point was omitted which should tell in the prisoner's favour, either through ignorance, inadvertence, or total absence of the means requisite to engage

efficient legal assistance. Supposing a large amendment of the law in the direction of abolition, it may be anticipated that whatever cases still continue to be punished capitally will be far less likely to receive the merciful consideration of the Executive than at present. If the Legislature deliberately sanctions a new law, the Home Office will certainly endeavour to shield itself from responsibility by accepting the decision of Parliament as decisive wherever the penalty remains. Hence the necessity for avoiding the necessity for appeals after trial, by limiting, as far as possible, by enactment, the operation of the capital penalty. It is pretty clear that the commission will attempt some new definition of the crime of murder, and it will be for the people to see that any changes suggested are in harmony with public opinion.

The last class of offences is one for which possibly prejudice may still demand the retention of the penalty.

Now, if society requires protection from one crime more than another, it should be defended above all from the horrible devices of the deliberate poisoner. I will take that as the worst possible form of murder, and deserving of the highest punishment. But does the capital penalty afford protection from that punishment?

Just in proportion to the cool, deliberate villany of the artist in murder are his calculations of the chances of escape. And just as he multiplies his artful devices so does he afford pretexts for doubts to be eagerly seized by the jury, who, but for the penalty, would be but too ready to aid in suppressing so foul and desperate a crime. The twelve men sworn to return a verdict according to the evidence may be honest enough; but they are never lawyers, and seldom very well trained logicians.

It is not in human nature to disregard consequences, and thus the most hateful of crimes is least likely to meet with punishment. On the other hand, no cases are so likely to be prosecuted with prejudice and preconceived theories of guilt. Hence the danger of wrongful conviction and the sacrifice of innocent life. Hutchings, who was hanged in 1847, at Maidstone, for wife-poisoning, died protesting his innocence with cries the most vehement, uttered in tones that those who were present assure me still ring in their ears, though eighteen years have passed. Yet it is stated that shortly after the execution Hutchings' son, who had given evidence against his father, and even seen him hanged, confessed to the crime for which his father had suffered. It is well known that counsel who prosecute in

capital cases at the Kent Assizes habitually challenge those jurors who reside in Maidstone, in consequence of their well-known aversion to capital punishment. Is this wonderful, so long as the appalling story above related lives in their memories?

It will be suggested that poisoning is only one form of aggravated murder. It will be said that the assassin who couples deliberate murder with robbery, or stealthily lies in wait for his victim, is not one whit less worthy of death than the poisoner. But men who accomplish deeds of ruffianly violence are not those who dread or calculate upon *consequences*. If they are not to be deterred by the penalty, to what good end is it retained for their sakes. Here, too, the chances of escape must again be taken into account. The murderers of poor old Dorothy Bewicke are still at large, because a jury dreaded less their escape than the chance of committing a fatal error. The acquittal of John Isaac Jones, alias Joseph Dibble, for the murder of Harriet Baker, accompanied by robbery, at Hereford, in 1859, was a case in point, and produced a profound impression even at the Home Office.

I am not making an argumentative appeal to opponents, but glancing over our position with friends, and therefore touch lightly on

those points which have, doubtless, presented themselves to the consideration of many of my readers who await with interest the report of the Royal Commission. But, whilst we speculate on the probable tendency of that report towards a large and sweeping amendment of the law, how is it that, knowing how overwhelming the evidence in our favour must be, we do not venture to calculate upon the Commissioners recommending total abolition. It is not unlikely the opponents of the punishment possess a clear numerical majority upon the Commission. But what if there be a strong minority who still obstinately, though conscientiously, hold out. If the Commission were the court of final appeal on this question, the majority might be bound to stand their ground without compromise; but there is another tribunal to which they must bring up their report, with the evidence on which it is based, and there the supporters of total abolition are certainly in a minority. Would the cause be advanced or otherwise by the presentation of two reports to the House of Commons; one simply recommending the abolition of the penalty, the other its retention. Such a state of things would probably defer the chances, not only of abolition, but of amendment; and we have seen how much may be done in a right direction, though short of our full desires.

But, whilst these considerations may lead to a compromise, so far as the Commissioners are concerned, each side conceding something, that a harmonious agreement may be allowed to prevail, and a useful step made towards reforming the law, whilst the evidence thus authoritatively collected and published will lay the foundation for future discussion,—it does not the less behove us, whose opinions are resolutely firm in favour of a full and complete measure, to bring to bear whatever influence we possess in order to accomplish the result which can alone give permanent satisfaction or safety. For, whilst I do not wish to put arguments into the mouths of anti-reformers, I must honestly assert my conviction, that every one of the attempts the Commission may be expected to make towards limiting the penalty, will only serve to make its continuance in any case more absurd, and let us hope impossible.

Our opponents will endeavour to represent the partial reform as final; and all disturbance of that settlement will be deprecated by the change-haters, a numerous class both in and out of Parliament. If, therefore, taking our stand upon the evidence collected by the Commissioners, and judging for ourselves rather than relying upon their conclusions, which may partake of the nature of a compromise, we can win a successful

battle in the complete overthrow of the death penalty, let us not shrink from the conflict; but if, foiled in this, an advance is gained by the *limitation* of the punishment, let us but use it as a stepping stone to fresh efforts, unchecked by the secession of any who may be content with a partial triumph. If we would strengthen the hands of justice, avert the chances of irremediable error and elevate the standard of the value of human life before our country and the world, we shall not rest till we have wiped from the book of England's laws the penalty that, framed as a terror to evil doers, has become an abomination and a curse.

We need feel little anxiety as to the *mode* in which, so long as it is retained, the wretched business is carried into effect. I have always felt scandalized at the suggestion of private executions; though it may be doubted whether the gross evils attendant upon a public hanging do not outweigh the objections that may be urged against a private performance of the hateful tragedy. Whilst the supporters of the penalty concede much, when they seek to hide it from the public gaze, the criminal may be deprived of the sometimes coveted desire to achieve a mock-heroic reputation for the hardihood with which he approaches

his doom. Certainly, we need not divert our attention from the main question to mere incidental considerations. Evidence accumulates on evidence,—facts crowd one upon another; last year there was the execution of Wright, and the narrow escape of Hall; now we have the strange story of Pelizzioni, and the wonderful chain of events connected with his unjust sentence and its final revocation. The dishonourable conduct of the police—the mistakes of the witnesses—the chivalrous generosity of Mr. Negretti—the surrender of Gregorio Mogni—the appearance of the man civilly dead, to give evidence in his own favour—the tenacity of the Home Office displayed in a third trial, and the bold determination of his defenders, not merely to obtain a legal acquittal but to clear the character of Serafino Pellizzioni, from all taint or disgrace—form the most remarkable chain of circumstances, perhaps, ever developed in the history of our criminal courts. If, to obtain the total abolition of capital punishment, Englishmen will exhibit one half the vigorous determination that Mr. Negretti displayed on behalf of his humble and wrongfully convicted compatriot, it will not be long before official blindness and popular ignorance will alike yield to the influence of reason and truth.