

CONVICTION ON CIRCUMSTANTIAL EVIDENCE—1868 IN ENGLAND.

Thomas Davenport, an eminent barrister, a gentleman of acute mind and strong understanding, swore positively to the persons of two men, whom he charged with robbing him in the open daylight. But they positively proved *an alibi*, and the men were acquitted: *Rev v. Wood and Brown*, 28 State Trials, p. 819; Annual Register 1784. Many of the cases where conviction was had upon evidence which was indirect or circumstantial, illustrate the assertion of Burke, that circumstantial evidence is often more reliable and positive than direct proof. Capital crimes are so rarely committed under circumstances which lead to positive unequivocal evidence of them, that presumptions are necessarily founded upon the connection with certain facts. So when the one is proved to have occurred the others are presumed to accompany them. Some presumptions of nature are so cogent and irresistible, the law adopts them as *presumptiones juris et de jure*. The question whether parties in criminal prosecutions ought to be allowed to testify in their own behalf has elicited much discussion during the past five years, and some states, Massachusetts and Maine among the number, have passed enactments allowing parties arraigned for capital offences to testify. Few know how numerous are the cases where it has subsequently been discovered that the innocent suffered instead of the guilty. One such case in an age is enough to make legislators pause before giving a vote against the abolition of capital punishment. But some say the old testament requires blood for blood. So it requires that women should be put to death for adultery, and men for doing work on the Sabbath, and children for cursing their parents; and "If an ox were to push with his horn, in time past, and it hath been testified to his owner, and he hath not kept him in, but that he hath killed a man or a woman, the ox shall be stoned, and his owner also shall be put to death." The commands given to the Jews in the old dispensation do not form the basis of any legal code in Christendom, and to select one commandment and leave the others out is manifestly absurd. It is to be hoped that, not alone from the chance of condemning a wrong party, but from general motives of humanity, and a consideration of the utter uselessness of public executions in the way of example, capital punishment will ere long be numbered among the extinct barbarisms, and other and more rational means adopted for maintaining the integrity of the law and the peace of society.—*American Law Reg.*

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1868 IN ENGLAND.

The year 1868 has presented us with 123 public general Acts, as its contribution to the statute roll. We have already, in our last volume, commented on the new statutes, and shall now confine ourselves to merely enumerating those which merit notice in a retrospec-

tive review of the year. Cap. 11 rectified a blunder in the Chancery Dispatch of Business Act of the previous session, by forbidding a single Lord Justice to rehear decrees made on motion. Ireland has no divorce court, and cap. 20 gives to the Irish Probate Court a jurisdiction precisely similar to that bestowed on the English Divorce Court by the Legitimacy Declaration Act of 1858; while cap. 77 has amended the law as to divorce appeals in England. Cap. 24 has abolished public executions. Cap. 37 has simplified the proof of public documents when put in evidence. Cap. 40 aims at removing certain difficulties arising in partition suits. Cap. 54 provides a machinery for enforcing English, Irish or Scotch judgments or decrees respectively in *all* parts of the United Kingdom. Cap. 68, which seems intended as a feeler or temporary measure, aims at assisting liquidation in bankruptcy and winding-up, by facilitating distribution in specie and foreclosure. Cap. 71 makes the stride of conferring admiralty jurisdiction on certain County Courts. Cap. 72 diminishes the requirements of the law as to promissory oaths. Cap. 73 restores the Parliamentary franchise to Revenue employes. Cap. 76, following the lead of the Bills of Lading Act and of the Policies of Assurance Act of 1867, renders marine policies effectively assignable. Cap. 104, the Bankruptcy Act, 1868, is one of the most important Acts of the year, being aimed at fraudulent composition deeds; and the reader may perhaps remember the rush of deeds which took place before it came into operation, and the subsequent falling off in their number. Cap. 107 ends the compulsory payment for Church-rates for merely ecclesiastical purposes, except where levied in support of a security on the rates, or, by local Act, in lieu of tithe; and cap. 117 does what hitherto could be done only by the Ecclesiastical Commissioners—viz, turns every full incumbent, other than a rector, into the name and style of a vicar. Cap. 110 empowers the Postmaster-General to buy and work all the telegraphs. Cap. 116 makes an excellent amendment in the law of larceny and embezzlement, by extending it to a partner appropriating from the co-partnership concern. Besides these we have the Railways Extension of Time Act and Regulation Act, and two Poor Law Amendment Acts, the Boundary Act, to settle the boundaries of Parliamentary constituencies, the Irish and Scotch Reform Acts, and the new Parliamentary Registration Act, which latter should, and probably will, receive some amendments. Finally, as the most important change of all, we have the Election Petitions or "Bribery" Acts, which transfers the jurisdiction over election petitions from the old committees to judges of the Common Pleas, and which though heartily to be welcomed, will not quite suppress electoral corruption. This, then, is a summary of the principal changes which 1868 have made in our statute law. We cannot say that we have discerned any improvements in the aver-