to understand and feel, that whether the laws themselves be good or bad, their practical administration may either on the one hand be made the handmaid of liberty or the instrument of the despot. The finest, the most learned, the most scientific writers on jurisprudence, have been and are Frenchmen and Germans. I shall say nothing of their respective judicial practice. There was a time, too, when the Neapolitan school of law was the most enlightened of its age. Need I say anything of the Courts of Naples? In these countries, justice was a theory and not a fact, and the people were in so many words told that the laws were not so much intended for them as for the whim and caprice of the lawgiver.

Perhaps I should not be far wrong were I to suggest, that however unfavourable the law of England may contrast with other systems of jurisprudence, the comparative purity and independence of its administration, by which it has ever commended itself to the respect and confidence of the English people, may be attributed in a great measure to that rigid and unbending technicality by which its forensic regulations have been from time immemorial, and may be said still to be distinguished,—in other words, that if not the system of English special pleading, that, at least, the principle on which that pleading is founded has afforded to the suitors in the English courts of law the best security for justice, and that the ignorant unpopularity, as I must call it, of what no doubt may be regarded as the most subtle and crafty of the English lawyer's art was an unthinking and self-delusive outcry. For whatever may be said against technical pleading and practice when compared with that rough "substantial justice" which appears to be the stock in trade of too many of our modern law reformers, I say, whatever may be said against technical pleading and practice in other respects, it at least secures perfect impartiality to the forms of the Courts. It does this by compelling a constantly unvarying appeal, in the interests of all classes of suitors, to the same unvarying principle of justice, and it obliges all these suitors themselves, without regard to rank or any external consideration, to use, in presence of the judicial magistrate, precisely the same language.

Modern legislation, however, has shown that such technical procedure may be carried too far, and the Common Law Procedure Acts of recent times prove that excessive technicality may operate so as to defeat justice. That it was so formerly in English Common Law practice there can be no doubt, and the eloquent denunciation of the system by our noble and learned President, Lord Brougham, in his great speech on Law Reform, in the House of Commons, in 1828, is not yet forgotten. "Talk of scourging men with a rod of iron!" his lordship exclaimed,—"Why should he do so? The lash of parchment which is applied to all suitors in our Courts of Law, that flapper that keeps them awake by the sufferings it inflicts, that excellent and parental corrector of human errors, those engines of pleading, which, when they pretend to enlighten, seem only to keep the Court and the suitors in the dark." And the late Lord Campbell, when Attorney-General, stated in his evidence before a Scotch Law Commission, by way of justifying the opening statement that is made at trials in England, that "the record does not at all state what the real circumstances of the case are; and the evidence that is given would be quite unintelligible without an opening statement."

But, on the other hand, it cannot be doubted that the lawyers of Scotland, in their devotion to jurisprudence as a science, and their disregard of the claims of technical pleading, have gone to the other extreme.

It has, I confess, been a matter of surprise and regret to me, that what I must take leave to call the inartificial procedure of the Courts of Scotland should, with the example of English Courts, before them, have been so long persevered in; and for myself, I confess, I exceedingly rejoice that the necessity of a different and better system has at length been recognised by the Government, and I may say at once, that in my humble judgment, the Legislature will do a good service to Scotland by adopting, with such amendments and improvements as may be required, and passing into law, the Lord Advocate's Bill. It may be regarded as a fortunate circumstance that this bill will come before Parliament for consideration simultaneously with the report of the Royal Commissioners on the English and Irish Courts to which I have referred, and which Report is one of the most able, discriminating, and instructive statements that could be offered to our attention. Both these documents, the Lord Advocate's Bill and the Commissioner's Report, propose considerable changes in the practice of Scotch and Irish Courts, on the principle of assimilating the latter, as well as may be, to the practice of the Courts in England. And it is remarkable (as a perusal of the report has satisfied me) that while, as is well known, the judicial system in Ireland, by its recognition of the separate administration of law and equity, and in many other particulars, is very much the same as, if indeed it is not identical with, the English system of procedure, has many points of resemblance to the legal practice of Scotland, while it shows a corresponding departure from the English rules. So far, therefore, these documents attest the comparative superiority of the procedure of English Courts, and without inquiring whether such is justly attributed superiority, the practical boon to the people of the three kingdoms of assimilation in legal procedure, cannot be regarded as other than a great public convenience and benefit to the people of the United Kingdom, so great comparatively as to overweigh the local value of minor points of divergence. I sincerely trust that such assimilation may be permitted to go still farther, and that, ere long, we of the present day may live to see the same system of administration regulating all the Courts of the realm, and to know that the Queen's subjects realize in their political and social intercourse, and in all their public and private relations, the happiness of living not only under the same constitution and the same law, but even the same forms of law. Let me also throw out, although the suggestion is not so germane to my subject as my other topics, that for the purposes of this assimilation it is very desirable that the distinctions that are known to exist in what may be called the domestic institutions of the legal profession in the three countries, should cease, and that in fact there should be but one profession for the three countries, one class of law agents and solicitors, and one and the same bar, entitled to exercise their forensic office, whether in England, Ireland, or Scotland, as may best suit their interest or convenience. Sure am I of this, that, until these professional distinctions are entirely abolished, we can scarcely expect that complete assimilation of the law and its practice in the Queen's dominions which the common interest of all her subjects so plainly requires.

I am not aware of the nature of the discussion and criticism which the Lord Advocate's Bill has received here, but in regard to those who support it may not yet have conciliated, I beg you will kindly indulge me with a brief historical retrospect of the course of legal procedure in Scotland, and from which I hope you will see that this contemplated reform is not a mere English importation.

The most ancient court of justice here of which we have any authentic record was the curia parliamenti, but it does not appear to have been regularly established till 1424, when King James I. gave it a more settled character. Lord Stair speaks of the King in the following terms: "He was one of the most excellent and best experienced kings we ever had. He had most of his breeding among the English, by whom he had been taken while on his voyage to France, and detained prisoner eighteen years; and he was likewise for some time in France, being brought thither by Henry V., King of England, of design to interest the Scots in his favour, they having about that time fought in France with singular valour and success against the English. So that he had opportunity to learn and under-