

no doubt there are, and I consider it is impossible in any human system of administering justice, to avoid such misfortunes occasionally. There are many cases in which the guilty escape, but very few in which the innocent are punished; and having now had more experience upon the Bench in the administration of criminal justice than any other Judge, I can say for myself, that I can hardly call to my recollection any case with which I am personally acquainted, in which I think that a person really innocent has been convicted by the Jury.'

"Lord Denman expressed a similar opinion—'Juries are extremely unwilling to fall into the error of wrongly convicting. I believe there are a great many very wrong acquittals, and even conscientiously sometimes, from good motives and very respectable feelings, but unfortunately contradicting the truth, and bringing the administration of justice into some contempt, and giving impunity to great offenders.'

"Lord Brougham coincides in that view—'My impression and belief (he said) most undoubtedly is, that there are very rare occasions indeed on which there are wrong convictions.'

"Justice Wightman said—'As far as my experience goes, I entirely concur with Baron Parke in thinking that the conviction of a really innocent person is so rare that there is practically no sufficient necessity for applying a remedy which would be attended with such obvious impediments to the due course of criminal justice.'

"The weight of evidence is, therefore, in favor of the belief that wrong verdicts in criminal cases, at least when they are against the prisoner, are of rare occurrence. But if a wrong verdict is given, and the Judge is dissatisfied with it, what is the almost universal result? It is, that the Judge communicates his dissatisfaction to the Home Secretary; and I find it stated by Baron Parke, and assented to by Lord Lyndhurst and Lord Brougham, that such a report is universally acted upon. I maintain, therefore, that no proof of any practical and substantial grievance has been brought before the House, and that none really exists."

Again Sir George says—"I wish now to shew some of the probable consequences with which the Bill is pregnant, in the event of its being passed. These are, first the delay and uncertainty which it would import into the administration of Criminal Law. It is a maxim laid down by all writers on criminal jurisprudence, that punishment is effectual in proportion as it is speedy and certain, and the result of the proposed measure would therefore be to deprive the administration of the Criminal Law of much of its effect."

"Upon this point Lord Brougham said before the Committee of 1848—'The Criminal Law depends for the effect, more or less, which it has in delivering from crime by example of punishment, upon the speediness with which execution of the sentence follows trial. But in this case you would have a prisoner found guilty at York in the first fortnight in July, but no sentence, even in the most flagrant case of murder, ever could be executed till the middle of November following. For certainly in every case of capital conviction, and I believe in every serious case, the moving for a new trial would be a matter of course.' Another important feature in the question, is the expense which the multiplication of trials, and the necessary addition to the number of Judges, would cause. Lord Brougham gave the following opinion as to the probable additions to the Bench, that would be required in the event of Criminal Appeal being established:—'Another thing is this, for the present number of Judges to do it would be utterly impossible, and then you come to the great difficulty of materially increasing the number of the Judges. Supposing the Bar could furnish the increased number, which is perhaps doubtful, but supposing it could furnish six more Judges to be added to the present fifteen, I beg to know how those Judges could be kept up to the mark for their business?' I do not suppose, of course, that the Hon. and learned gentleman, or any member of this House, would be influenced by the prospect of business at the Bar being increased by the adoption of Appeals, but no less competent an authority than Lord Denman suggested that as a reason for the popularity of the proposal. His Lordship said—'*I think there is another reason for the outcry, which is a great desire, I think, on the part of many active and able persons attached to the law, to see a new Court, and a new course of practice which would be popular and striking, and give a new scope for the display of their talents.*'"

"And again Lord Denman said—'I think there are grave objections to any thing which will give countenance to the opinion, that wrong convictions are of frequent occurrence, and that a new Court ought to be erected, or the present Courts empowered to correct them by motions for a second trial. One consequence of such a power might be, a degree of laxity of juries in considering their verdict, and less reluctance to convict on doubtful evidence, because the new trial might correct their mistake. And after all the second trial could not guarantee the security of the truth,—the second Jury is not more infallible than the first.'

"Lord Brougham said—'Most undoubtedly, if it were thought that you might set an error right by moving for a new trial, there would be a good deal less of that sort of awful feeling of responsibility, under which both Judge, prosecutor's and prisoner's Counsel, and Jury act; whereas at present they feel that what they are doing is remediless, if any error is committed. I am quite sure upon Jurors it would have an effect, and this is a question about Jurors rather than about Judges.'

And Sir George concludes thus—"There is a rule in English Law, which is never departed from—that a penal Statute must be construed strictly. If there is any doubt as to the verbal construction, that doubt always avails in favor of the prisoner. What would be the position of the prisoner if the rules of law, which the honorable gentleman seeks to establish, were substituted for the present law? The Counsel for the prosecution would be able to say with truth, 'Gentlemen of the Jury, if your verdict against the prisoner be wrong, he has an appeal, and it can be set aside, but if you acquit him, your verdict is irreversible, therefore pray incline to the side of severity, and not to that of mercy. If you are wrong, there is an appeal for the