

state or sum up the evidence as they think good. For, as the Law now stands, let a Juror be ever so inflexible to the direction of a Judge, or adhere ever so obstinately to his own opinion; it is not in the power of that Judge to discard him, and have another sworn; nor even, when the next trial comes on, to "order the Officer, who calls the Jury, to pass him over, if his name should again be drawn, and to take care, that he be never more, upon another Jury." ⁽¹⁾ Nevertheless, let other peoples notions be what they will, I shall always think this to be a power much wanted by a Judge, at least by a Chief Justice; as I am persuaded, that the higher men are in the world, the greater will be the value they will set both upon ears and life. All important Crown-Prosecutions would then be conducted in the best manner, according to the will of the Chief Justice of England, who is frequently a Peer himself, and of great weight with the Ministry; is always a Privy Counsellor, sometimes of the Cabinet, and intitled to the ear of his Majesty, and of course infinitely above all prejudice, and every thing else that is low and vulgar. Under such direction, no man would be found guilty, or lose his life, from error or ignorance. And the Lawyers hold it for a maxim, that the King is interested in the life and health of all his subjects. In my humble opinion, there is some small strength in these arguments! To say nothing of the disagreeableness, tediousness, trouble and precariousness, of all trials by Jury, composed of nobody can tell whom.

I shall not wonder to hear myself traduced for gross partiality to the present Ministers; but altho' men are often mistaken about their own

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(1) Dr. Mayfield is said to have done this.