but little exceeded the astonishment at the appointment being made from the bar at all. Scarcely any one had doubted that Lord Justice Amphlett's successor would be one or other of the judges of the High Court; and unless the new Lord Justice were to be chosen—which, perhaps, he should have been—from the Chancery Division, it was Mr. Justice Lush who was generally supposed to possess the highest claim to promotion. But there are several others who could be named as fitting successors to Lord Justice Amphlett, and whose appointment would fully have satisfied professional and public opinion. If, however, the Lord Chancellor intended to go further afield, if he intended to dispense with judicial experience and proved judicial capacity, it was at least expected that he would make an appointment which he could justify by the traditions reserving certain judicial prizes for important political service or distinguished forensic success. But these expectations have been altogether disappointed in the selection of a nominee who is neither fitted for the post by judicial experience, by reputed learning, or even by length of years; while he can put forward no compensating claim whatever on the ground of political service or professional distinction. A Queen's Counsel whose silk gown is four year's old, and its wearer only thirty-nine, and who has never in any way distinguished himself above his fellows, has been passed over the heads of twenty judges into one of the most important judicial offices in the State. Such an appointment appears inexplicable."

These views, so far as the cases are parallel, so exactly coincide with the opinions we have expressed in relation to the Constitution of our own Court of Appeal that we make no apology for calling attention to them. We are more and more satisfied that the system practically inaugurated when the Court was recently re-organised was a mistaken one and fraught with many perils to the efficiency of the Bench and to the maintenance of public confidence, though we admit there were then some difficulties to contend with.

SELECTIONS.

NEW TRIALS FOR FELONY.

Amongst many anomalies in our law, that of granting new trials is perhaps least capable of being upheld by logical reasoning, and yet is firmly supported by a powerful argument derived from the national love of justice. We have little doubt that our system of jurisprudence was once reproached for not permitting new trials, and the frequency of them now in turn sometimes becomes a subject-matter of complaint. The earliest reported case of a new trial is not of older date than 1648, although there is evidence of their having occurred in civil causes at a more remote period. In 1757 Lord Mansfield explained that the reason why they could not be traced further back was "that the old report-books do not give any account of determinations made by the Court upon *motions*;" and commenced his judgment on *Bright* v. *Eynon*, 1 Burr. 393, by saying: "Trials by jury in civil causes would not subsist now without a power *somewhere* to grant new trials. If an erroneous judgment be given in point of *law*, there are *many* ways to review and set it right. Where a Court judges of fact upon *depositions in writing*, their sentence or decree may, *many* ways, be reviewed and set right. But a general verdict can *only* be set right by a *new trial*, which is no more than having the cause more deliberately considered by *another* jury, where there is a reasonable doubt, or perhaps a certainty, that *justice has not been done*." Now, as Mr. Patterson has recently pointed out in his elaborate work on the "Liberty of the Subject," vol. i. p. 462, "the only legal mode of reversing the verdict of a jury known to the common law was by attaint, granted by the statutes of Edward II. and Edward III., the object of which was to rehear the case by means of a jury of twenty-four persons; the law considering that the oath of one jury should not be set aside by an equal number, nor by less than double the former. If the second jury agreed, the verdict was confirmed; if otherwise, the former verdict was annulled, and the first jury were convicted of perjury and false verdict." But, continuing the judgment above cited, Lord