

mised. The hon. member for West Durham (Mr. Blake), in addressing himself to an interlocutory resolution the other day, declared that it was contrary to sound policy and to fair play that the previous question should be moved. If this matter is to come before Parliament as before a court of appeal—if this House is to arrive at a just determination on this question, upon what ground should hon. members be allowed to introduce other issues? The hon. gentleman was so candid as to avow, before his speech on that motion was concluded, that he had no hope, even if such amendments were moved, of having them carried, because, he said, we must eventually come down to this resolution. Then he would simply have had the advantage of having the House come to a decision on this question with a clouded judgment and with partisan feelings, raised by the discussion of issues on which hon. gentlemen opposite seek to bring against the Government the charges which have been bandied across the House in this debate, of guilt in connection with other transactions altogether. I said, Sir, that I felt it my first duty to express this opinion to the House, and I am glad to know that some hon. gentlemen opposite feel as I do. The hon. member who addressed the House on Friday evening so long and so ably, has filled the office which I have the honor to hold at present. He is conscious of the great difficulties which beset a Minister of Justice in advising the dispensing of the clemency of the Crown, and within the last three months the hon. gentleman said, in a great public assembly:

"I know how much these difficulties are enhanced by heated partisan and popular discussion, in which distorted views and an imperfect appreciation of the facts are likely to prevail."

After that frank admission I would suppose that if this question was to be argued in this House, as it has been argued by the other side, as a question of confidence, we should at least not have had those "heated partisan and popular" appeals made in order that the judgment of this House might not be taken upon the real question that is before it. Let me turn the attention of the House for a moment to the manner in which, in the country to which this Parliament looks for a model, questions of this kind are considered. I am not venturing to dispute the right of any hon. member, much less of the whole House, to challenge the conduct of any Minister of Justice for the time being as to the way he should have advised the Crown upon the case of any convict; but I am challenging the propriety of exercising that right to such an extent as it has been exercised here. On 20th July, 1877, Mr. Gathorne Hardy, who held the office of Home Secretary, said:

"He hoped the time would not come at which the House would fail to rely on the Executive, either to exercise the prerogative of mercy, or to carry out the law to its fullest extent."

He also said:

"Suppose the records to be produced, were they to re-try the case upon them without seeing the witnesses? That would be a most unusual proceeding, only to be resorted to when there was some suspicion of corruption or partiality at the trial."

Mr. Gladstone, in the course of the same debate, said:

"It appears to me so desirable that in a matter of this kind the prerogative of mercy should be left in the hands of the Crown, to be exercised according to the advice the Crown may receive from those whose duty it is to give it, that only in the extreme cases should I wish to support a motion which strictly interposes the judgment of the House for the purpose of swaying the judgment of the Crown."

And Mr. Gladstone abstained from voting upon the question which was then before the House. In another case, in 1870, in the course of a debate, part of which the hon. member for West Durham (Mr. Blake) read to the House, Mr. R. N. Fowler said:

"Such cases ought to be left entirely in the hands of right hon. gentlemen opposite. This House was, in the nature of things, one of the worst places where the question of the comparative guilt of a murderer
Mr. THOMPSON (Antigonish).

could be properly considered, for it was a legislative assembly and not an executive body."

On the 3rd of July, 1884, Mr. Trevellyn said:

"I regret very much that that decision is come to"—

That is, the decision of the Executive not to commute the sentence.

"I regret very much that this decision has been come to, but we have felt ourselves bound to arrive at it, and I do not consider that the House of Commons is a place where cases can be tried over again."

Sir William Harcourt, who, we were told the other day, is a great statesman, said:

"It is a very serious thing to reconsider, in a matter of this description, the deliberate decision of a judicial tribunal. Although, of course, I do not deny for a moment the right of any member of Parliament to bring forward a matter of this kind, still I assert that it is most inconvenient and almost impossible for this House, upon *ex parte* statements, or even upon an argument of the case, to arrive at a proper decision of the matter. We cannot dispose of matters of this kind by a debate, even if it be most calmly and carefully conducted, in a popular assembly."

Mr. Trevellyn said again:

"The discussion has shown how inconvenient it is to try a case of that kind over again in the House of Commons, for the hon. member who has just spoken practically tried the case over again—"

I can repeat those words with emphasis, when I reflect upon the speech that we listened to last Friday.

"not from any new evidence he has brought forward in regard to the case itself, but upon an argument in connection with a case that occurred in Manchester some years ago in which it was shown that there was a case of mistaken identity. I think we should as far as possible recognise the principle that the question of dispensing the mercy of the Crown should not become a matter of debate in this House."

If this is to be done, if a political discussion is to follow the action of the Executive in every case in which clemency is given or refused, one can easily understand what confusion we shall introduce into the administration of criminal justice in this country. The greatest criminal who may be condemned by the tribunals will have some hope that if his case can only be thrown into the vortex of politics, to quote the language of Louis Riel on the day of Batoche, "politics will save me." He will point to the fact that, fifteen years ago, a political party in this country made a desperate effort to gain power by appealing to public passion about a great tragedy which took place, and that having failed in that enterprise, fifteen years afterwards they considered they could climb into power on the feeling provoked by another tragedy—first trying fortune upon the fate of the victim, and then trying it upon the fate of the murderer. It will result, Sir, that the Executive, especially if it be weakly supported in this House and in the country, must seek to do, not what is right merely, not what is justice merely, not what is a fulfilment of the law merely, but that which is most popular in the country, in view of the fact that the case is likely to be tried all over again in the House of Commons as a court of appeal, and in view of the fact that afterwards it will be tried all over again at the polls. More than this, we have had already indicated a still more serious result. It is not merely that the administration of justice is to be brought into disrepute, not merely that its just enforcement is to be endangered, but if the Executive shall attempt to carry out the law, then in relation not merely to the Executive itself, but in relation to the people who support its policy, and all people who believe that it was simply carrying out the law and discharging its duty, a cry of revenge, as my hon. friend from Kent (Mr. Laundy) said, is to go up, and be kept up, by one section against the other. We shall have, then, not merely the administration of justice degraded, but we shall have, as indeed we had in the month of November last, the cries of civil war raised in our own streets, when they had died away on the banks of the Saskatchewan. We