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INCREASE OF SENTENCE.

The *New Jersey Law Journal* notices an incident which occurred lately in one of the Courts of Special Sessions in New Jersey, and which, it says, provoked comment in the daily papers. A young man was sentenced to two years' imprisonment for some offence. As he left the dock, he was heard to mutter some words of disrespect to the Court. The Court called him back, and added two years to the term of his imprisonment. This sentence has been criticized on the ground that it was in reality sentencing the prisoner for his disrespect under the form of sentencing him for his former offence; but, it is urged, if his crime deserved four years' imprisonment, it should have been imposed at first, and if not, the angry words did not warrant a new sentence. The *N. J. Law Journal* remarks:—"The Court no doubt justified itself by the argument that the angry words showed a depraved disposition in the criminal, which made a greater punishment necessary. But it is not safe to judge of a man's depravity by words uttered at the moment of receiving a sentence to the State Prison. It is often a question of self-control rather than of disposition. And a sentence rendered in reply to angry words has not the appearance of judicial calmness which is necessary to give it the dignity and weight of the impersonal judgment of the law."

There is some force in these observations, and it would appear as if the Court was dealing with a case and inflicting a punishment not provided by law. But the practice, if lacking in dignity, is not without the sanction of authority. One case which we remember occurred in England in 1867, and will be found briefly mentioned in 3 *Lower Canada Law Journal*, p. 26. Two burglars, whose sentences had just been pronounced, furiously attacked the jailers. Half a dozen policemen leaped into the dock, whereupon a terrible conflict took place before the refractory convicts were reduced to submission. The Judge then ordered the men to be again placed at the bar, and enlarged their terms of penal servitude from eight and ten years to twelve and fifteen years respectively. The *Law Times* on that occasion declared that the legality of such a proceeding did not admit of a doubt, and cited *Reg.* v. *Fitzgerald*, 1 Salk. 401; *Inter the Inhabitants of St. Andrews, Holborn, and St. Clement Dames*, 2 Salk. 667; and *Rex* v. *Price*, 6 East, 328. A more severe punishment is noticed by Chief Justice Treby in a note to Dyer's Reports:—"Richardson, C. J. de C. B., at Assizes at Salisbury, in summer 1631, fuit assault per Prisoner la condemne pur Felony; qui puis son condemnation ject un Brickbat a le dit Justice, que narrowly mist. Et pur ceo immediately fuit Indictment drawn pur Noy envers le Prisoner, et son dexter manus ampute et fixe al Gibbet sur que luy mesme immediately hange in presence de Court."

MANSLAUGHTER.

The recent case of *Reg.* v. *Morby*, L. R. 8 Q. B. D. 571; 46 L. T. Rep., N. S. 288, affords another illustration of a peculiar kind of manslaughter. Morby was convicted of the manslaughter of his son, a child of tender years, who had died of confluent small pox. The prisoner, though able to do so, did not, owing to certain religious views he held, employ any medical practitioner, nor afford to the child during its illness any medical aid or attendance. The Court, composed of Coleridge, C. J., Grove, Stephen, Matthew and Cave, JJ., held that the conviction could not be sustained, the proof being to the effect that proper medical aid and attendance might have saved or prolonged the child's life, and would have increased its chance of recovery, but that it might have been of no avail; and there was no positive evidence that the death was caused or accelerated by the neglect to provide medical aid. In other words, a mere refusal to call in a medical attendant is not manslaughter, unless it be shown by positive testimony that the lack of medical attendance caused or accelerated death. This seems to be only fair and reasonable to the accused, but on the other hand we think it will be found a very difficult thing in most cases to prove by positive evidence that a person who has died without medical attendance would have lived if a doctor had been called in.