and singular the affidavits, depositions, evidence, conviction and other proceedings returned to or had before the said Court, unto the Court of Error and Appeal; and the said Court of Error and Appeal shall thereupon hear and determine the said appeal without any formal pleadings whatever: and if the said Court of Error and Appeal shall adjudge or determine that such confinement or restraint is illegal, such Court shall certify the same, under the seal of the said Court, to the person or persons having the custody or charge of the person so confined or restrained, and shall order his immediate discharge, and he shall be discharged accordingly.

7. The several provisions made in this Act, touching the making Writs of *Habeas Corpus* issued in time of vacation, returnable into the said Courts, or for making such writs awarded in term time, returnable in vacation, as the cases may respectively happen, and also for making wilful disobedience thereto a contempt of the Court, and for issuing warrants to apprehend and bring before the said Courts, Judge or any of them, any person or persons willfully disobeying any such writ, and in all cases of neglect or refusal to become bound as aforesaid, for committing the person or persons so neglecting or refusing, to gaol, as aforesaid, respecting the recognizances to be taken as aforesaid, and the proceeding or thereon, shall extend to all Writs of *Habeas Corpus* awarded in pursuance of the said Act passed in England in the thirty-first year of the Reign of King Charles the Second, or otherwise, in as ample and beneficial a manner as if such writs and the said cases arising thereon had been hereinbefore specially named and provided for respectively.

8. The said Court of Error and Appeal may from time to time and as often as it shall see occasion, make such rules of practice in reference to the proceedings on Writs of *Habeas Corpus* as to the said Court may seem necessary and expedient.

9. Nothing in this Act shall be held to impair or interfere with an Act passed during the present Session of Parliament intituled "An Act to authorize the apprehension and detention until the eighth day of June one thousand eight hundred and sixty-seven of all such persons as shall be suspected of committing acts of hostility or conspiring against Her Majesty's person and Government," but this Act shall be read therewith and as being subject thereto.

To the astonishment of the public no less than to the dissatisfaction of the lawyers, Mr. Walpole has refused the pardon so justly demanded for Mr. Toomer, intimating to the applicants that their proper course will be to indict the prosecutrix for perjury, when the convict will be admitted as a witness to tell his own story upon oath.—*Law Times.*

SELECTIONS.

DIRECTION TO JURY AS TO COSTS.

One of the most frequent questions asked by a jury before delivering a verdict in an action of tort, is—What amount of damages will carry costs? The rule has hitherto generally been to refuse the information demanded. Thus, at Wells the other day, Mr. Justice Blackburn refused to answer the question on the ground that the jury's sole duty is to say what damage the plaintiff has suffered, and then the Court says whether he deserves costs or not. But we observe that the Lord Chief Justice Erle, one of the most eminent of our Judges, acted at the recent Norwich Assizes on a contrary principle. At the close of the case of *Athol* v. *Seman*, an action of libel brought by the deputy-chief constable of the Norfolk constabulary force against the editor of the *Norwich Argus*, the jury "asked his Lordship what amount of damages would carry costs," and were informed that forty shillings would do so. Eventually they found a verdict for the plaintiff—damages one farthing.

Now we cannot doubt that the distinct knowledge of the sum which carried costs must have influenced the decision of the jury, and, with the greatest respect, we do not think that such knowledge should have been permitted to form an element in their decision. The old view of the matter, which is still adopted by most of our judges, seems to us preferable to the new. The statutes regulating costs are numerous, and depend in many cases on a variety of circumstances which have nothing whatever to do with the merit of the case. Take for example an action of tort capable of being tried in a county court. There to entitle himself to costs if he sue in a superior court, the plaintiff must recover more than £5. Now suppose a jury really believed him to have suffered in an action against a carrier, for instance, for delaying a parcel, only two pounds of pecuniary damage, but, at the same time, to have sustained a good deal of worry and mental anxiety, they would probably desire to give him his costs. But are they, from compassion or any similar motive, to mulct a defendant of £5 just because the parties might have settled their dispute in the county court? Clearly their duty, and their sole duty, is to assess the damage actually sustained and leave the rest to law. We are far from saying that in *Athol* v. *Seman* there may not have been some reasons not apparent from the report to justify the course taken by the Chief Justice. But, as a rule, it appears decidedly the best way to leave juries in the dark as to the exact consequences, pecuniary or otherwise, of their verdict. In civil and criminal cases the less a jury knows of the costs and punishment which will follow their verdict the more likely they will