

## JUDGMENTS—OUR JUDGES, OUR PERSONS, AND OUR PURSES.

*Words v. Rankin.*—Appeal allowed. Court below to issue a rule for new trial, without costs.

*Tiffany v. Bullen.*—Rule absolute, without costs. Held, that the affidavit to found a garnishing order must be made by the judgment creditor or his attorney. An affidavit by an agent insufficient.

*Welsh v. Leaky.*—Judgment for defendant on demurrer.

*Hyland v. Scott.*—Rule discharged, with costs.

*Gore Bank v. McWhirter.*—Rule discharged

*Forgie v. Reynolds.*—Rule discharged.

## COMMON PLEAS.

Present—RICHARDS, C. J., C. P.; ADAM WILSON, J.; JOHN WILSON, J.

Saturday, February 15, 1868.

*Winckler (administrator) v. Great Western Railway Co.*—Rule absolute to enter non-suit.

*Winckler v. Great Western Railway Co.*—Rule absolute for non-suit without costs.

*Cline v. Great Western Railway Co.*—Rule refused. Leave to appeal allowed in these three cases.

*Hope v. White.*—Stands.

*McWhirter v. Learmouth.*—Appeal from County Court dismissed with costs.

*Laur v. White.*—New trial, with costs to abide event

*Ball v. Town of Niagara.*—Stands.

*Ball v. Town of Niagara.*—Stands.

*Hopkins v. Provincial Insurance Co.*—New trial without costs.

*McDougall v. Covert.*—Rule discharged.

## SELECTIONS.

## OUR JUDGES, OUR PERSONS, AND OUR PURSES.

If the judge is to be a terror to evil-doers the administration of the criminal law must be vigorous, effective, and consistent. The latter property is perhaps the most important, and indeed the most excellently framed law loses all efficacy when inconsistently administered.

Common sense and common law agree in the principles regulating the penalties against life and limb, and crimes against mere inert property. Coke, Hale, and Blackstone all recognize the superiority of the former's claim to protection, and such claim was recognized by the ancient Anglo-Saxon code. Property may be recovered or reinstated in validity; life never can, and limbs but seldom if ever in their pristine vigour. It is in highest degree essential that health and strength of body and members, the health and strength on which depends the acquisition of property, should be guarded with the greatest vigilance, and all injuries to them punished with the sternest and sharpest retribution. And if the reader

is astonished at the enunciation of such trite truths, such mere elementary truisms, a perusal of many cases lately adjudicated on in the criminal courts will remove all cause for astonishment, and prove the need there is that some of our judicial functionaries should be awakened from the lethargy or hallucinations respecting the several rights of person and property into which they have fallen.

The evil of leniency in cases of injury to the person is one of those that has attained enormous proportion of late. It is one whose fruits are seen in the savage assaults and bloody affrays which must be checked, if it need be, by the bitterest pains of servitude and the lash. The next Session of Parliament will not have fulfilled all its duties if it ends without the enactment of a brief measure, fixing severer punishments for specified acts of violence. What such an Act should be will presently be shown.

Here let us consider the present code of criminal law and the various cases of misplaced "discretion" which are culled from a file of newspapers. They deserve the most earnest consideration from every judge and member of Parliament who may happen to see them, and their lamentable effect is to produce that curse to any system of law—a belief in its hazards and its chances as dependent on individual administrators.

The Consolidation Act, 24 & 25 Vic. cap. 100, is the present code regulating the punishment dealt out by the law of England to the commission of crimes against the person. The annexed table shows the penalties attached to the different species of violence which it is the aim of this paper to discuss.

## SUMMARY CONVICTIONS.

Common assault.....	{ £5 fine or two months' hard labour.
Aggravated assault on women.....	{ £20 fine or six months' hard labour.

## INDICTABLE OFFENCES.

Grievous bodily harm....	Penal servitude for life.
Common assault.....	{ 12 months' imprisonment.

Now there is no exaggeration in saying that dozens of cases are adjudicated on by magistrates under the first of these two headings which ought to be tried under the second. And, when so adjudicated, not even the full summary penalty—often not even half of it—is inflicted. Indeed, it is enough to provoke the most phlegmatic person into anger, to see the kind of apathy with which some of the London magistrates regard the cases of assault brought before them, and the ridiculously slight fines with which they punish them. The larceny of petty articles is visited with months of hard labour, while (to give instances reported in the newspapers) knocking a woman's tooth out and cutting her face, pulling a handful of hair out by the roots, indecently assaulting a servant, striking a woman with a rake in the face, and wounding her that she faints, and