

## The Legal News.

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The law of resistance to the police has acquired special importance in view of recent occurrences in Ireland. On the 14th of September, in the House of Lords, in the course of the discussion on the murder of Head Constable Whelehan, Lord Bramwell said (*Times* report):—"His justification for rising to address their lordships was this. Supposing a case in which the police were in the wrong—interfering and doing things which they had no right to do. In the presence of lawyers, who he was sure would not contradict him, he said it was unlawful to resist them by beating them, or throwing stones at them, by charging them with horses, or in any other way than by as peaceful and pacific resistance as could possibly be shown. After the police had left the scene of disturbance the notion that they were to be chased and pelted and beaten when on the ground was to suppose a condition of the law which was utterly untrue. In such a case as that, the police had a right to resist with extreme measures. He was anxious not to be misrepresented. He did not say that if a stone was thrown at a policeman he had a right to fire on the person who threw it. He had no such right, but if his life was imperilled from continued stone throwing and manifestations of violence—if he did not know but what his life would be sacrificed, or the lives of his comrades lying disabled on the ground—he then said that there was no doubt the policeman had a right to resist the people, even to the extent of taking the lives of those committing the illegality. It was desirable that this should be known, and he challenged any one to deny that it was the law."

The challenge of Lord Bramwell elicited the following from Mr. Christopher Page Deane:—"Lord Bramwell maintains that opposition to a wrongdoing policeman must be only passive and pacific. I do not know where he would draw the line between this

rule and the exceptions he must make to it in order to reconcile his doctrine with common sense. I will put two cases, which he might say are exceptional—*e.g.* a policeman endeavouring to commit a murder or a rape. In these the victim of the attempt is justified in unlimited resistance, even to the extent of homicide. To come down to a more ordinary level, if policemen attempt to search my house without a warrant, my resistance is not limited to that which is passive and pacific. I claim full liberty to use all such force and means as may be requisite to expel any policeman in my house on such an errand. Or, again, if I am playing lawn-tennis on a Sunday in my garden, and a fanatical policeman, or half-a-dozen of them, come and forbid me and prevent my playing, I claim that I may in this case also expel them. I cannot conceive a case to which Lord Bramwell's doctrine of passive and pacific resistance to wrongdoing can apply, and I make bold to say he as completely misconceives the law as does Lord Randolph Churchill. No "divinity doth hedge" a policeman. He is but a guardian of public order, with certain specific powers of applying and enforcing (*e.g.* by arrest of offenders) those who transgress the laws relating to public order. If he is himself a transgressor the public have an inherent, necessary right to maintain order in spite of him and in opposition to him, to resist force by force, to meet an assault by a counter-assault with a view to disarm the offender. He is merely the deputy of the public. The amount of force which the public is entitled to use in self-defence against wrong-doing policemen is, however, strictly limited to that which is necessary for maintaining order. Throwing stones at them, chasing them from any place where they have a right to be, beating them after aggression has ceased—these are contrary to public order, and therefore do not come within the right of the public."

The impetuosity of Mr. Deane's reply does not disturb the equanimity of Lord Bramwell. He endorses Mr. Deane's law in a rejoinder which runs as follows:—"Mr. Deane says I completely misconceive the law and am hopelessly astray as to the "rights and