

CONTEMPT OF COURT—THE ORTON DEBATE.

demeanour. It is not comforting to think that a manifestation of impatience, or the utterance of words, innocent in themselves, in a tone capable of more than one construction, may be visited with summary and severe punishment in the discretion of an inferior magistrate. It would seem desirable that a power of reviewing all the circumstances, weighing the gravity of the misconduct complained of, and controlling the discretion of the judge in the extent of the penalty inflicted, should be vested in a tribunal of appeal, the members of which might be expected to take a dispassionate view of the whole situation; though the tone and manner are such important elements that it would be difficult to arrive at a proper knowledge without observing them. As far as we can understand the decision in *Ex parte Lees*, a state of affairs in which counsel aggrieved in this respect could obtain redress would be very exceptional. The power of the inferior magistrate to visit any appearance of disrespect with a heavy penalty seems to be practically unlimited.

We have said what has occurred to us on this point without any regard to the merits of the case before us, and without suggesting for a moment that the decision was not perfectly right. It is to the general principle that our remarks are directed, and considering the infirmities of human nature, to which judges, with other men, are subject, we think the general principle is unsatisfactory. Judges occasionally mistake the earnestness of argument for disrespect to themselves and their office, and sometimes receive deserved rebukes from counsel for their suspicions. Such a rebuke was administered by an Irish barrister named Hoare to a judge foolishly nervous about his dignity. "The judge was small and peevish: Mr. Hoare strong and solemn. The former had been powerfully resisted by the uncompromising

sternness of the latter. At length the judge charged him with a design to bring the King's commission into contempt. 'No, my Lord,' said Mr. Hoare. 'I have read in a book that when a peasant during the troubles of Charles the First found the crown in a bush, he showed it all marks of reverence; but I will go a step further, for though I should find the King's commission even upon a *bramble*, still I shall respect it.'"

SELECTIONS.

DR. KENEALY AND THE ORTON DEBATE.

Both the debate and the division on the resolution proposed by Dr. Kenealy will, we trust, speedily put an end to a most discreditable agitation. Mr. Disraeli described the English as "the most enthusiastic people in the world," and expressed regret that they "should have their fine and noble sympathies enlisted in such a case; should be influenced by such misrepresentations; and be directed to such mischievous ends." The character of a people may be seen in the character of its heroes, and it would be a national disgrace if the convict Orton were a popular favourite, even to the degree to which Jack Sheppard and Jonathan Wild were favourites. When under cross-examination in the Common Pleas Orton admitted conduct that shows him to be a scoundrel of such a mean and despicable sort that the genius of a Dickens, a Lytton, or an Ainsworth, could not make him the attractive hero of a romance. In no act of his life is there any honesty or bravery. Take his own account of his career, and the conclusion is, that a worse villain never got into the witness box. There he stood from day to day, confessing that he was an unscrupulous liar and a coarse debauchee. Such a scoundrel is not a national hero, and we are persuaded that Dr. Kenealy has not nearly so many supporters as he imagines. We desire to be just even to the deluded Ortonites, and we willingly believe that their fault is want of thought; that they have ac-