

J., being of opinion that criminal jurisdiction is vested in the High Court as a whole, and that while the Queen's Bench and Common Pleas Divisions, as being continuations of the former Courts of Queen's Bench and Common Pleas, can respectively exercise a general criminal jurisdiction, yet that no provision has been made enabling the Chancery Division, or its Divisional Court, to exercise any general criminal jurisdiction. This, of course, does not apply as regards Crown cases reserved for the disposition of which each of the Divisions of the High Court is expressly constituted a Court (R.S.C., c. 174, s-s. 2, 259 *et seq.*). What is needed, according to the view of Ferguson, J., is some enactment by the Dominion Parliament, enabling the judges of the Chancery Division singly, or when sitting in the Divisional Court of that Division, to exercise the general criminal jurisdiction vested in the High Court. Owing to the division of opinion the decision has not the same weight it would have had, had the learned judges been agreed, but, though lacking in conclusiveness, it has nevertheless made clear that the point is one open to doubt, and this should be removed at the next session of the Dominion Parliament. In remodelling the Courts, as was done by the Judicature Act, it is obvious that owing to the divided powers of legislation possessed by the Dominion and Province, and to the diverse nature of the jurisdiction exercised by the former Courts, that, in order to properly carry out what was intended, concurrent legislation by both legislatures was necessary, and it was a pity that it was not secured at the time.

INEQUALITY OF CRIMINAL SENTENCES.

In most cases under the Criminal Statutes, there is a discretion in the trial judge, within certain limits, as to the extent and duration of the sentence imposed. In such cases it must be a painful and anxious duty for a conscientious judge to decide the punishment to be inflicted in each particular case. We extract from one of our exchanges the following clear exposition of the principles which ought to govern the judge under such circumstances:

"The recent debate in the House of Lords has again brought forward this much-vexed question. Lord Herschell desired to call attention to the difference of opinion which prevailed as to the principles which should regulate the severity of the sentences to be inflicted upon criminal offenders, and the consequent inequality in the sentences passed in cases of the like gravity. It is to be regretted that the noble lords who followed him did not confine themselves more to the main point of Lord Herschell's theme, which was the difference of opinion as to the principles of punishment. It is generally accepted that punishment may proceed on the theory of reformation of the criminal, of the prevention of crime, or of retribution; and it seems that, in truth, all these elements should be taken into consideration in attempting to fix a canon or standard system of sentences. A criminal is punished in the first place for the greater safety of the community; secondly, to satisfy and remove the craving for personal vengeance; and lastly, for his own good. And, in our opinion, this is the proper order in which these elements should be taken into consideration.