

the verdict, as in *Reg. v. Ball, R. & R. Crown cases, 132*, where it was held that although it appears upon a case reserved that evidence was admitted at the trial which ought not to have been received. Yet if the Judges are of opinion that, after rejecting the improper evidence, there was ample to support the conviction, they will not set it aside. Here no special report was made by the Chief Justice as to the effect of objected evidence, and the other evidence being ample without it, and no objection taken to the verdict according to the law and practice of this Court, it was no ground for disturbing the conviction. Then, as to discretion, in *Reg. v. Ellis, 6 B. & C. 147*, Bayley says, "I think that it was in the discretion of the Judge to confine the prosecutor to the proof of one felony or to allow him to give evidence of other acts which were all parts of one transaction." So it was contended by the Crown counsel that the felony committed here was a part of the transaction of resistance and murder, however in *Reg. v. Francis*, before cited, 1874, where the offences were no way connected, and attempts of uttering false coin had gone so far, BLACKBURN, J., reserved the point on that account and reported to the Court that he had no doubt that the evidence of the other pretences had much weight with the jury. It being manifest by the defence that the other evidence for the prosecution would have been entirely insufficient for conviction, but it was there held that other offences no way connected could be received against the prisoner, and, therefore, it became the established practice of the Court to admit such evidence generally. So that in every view the Chief Justice was right in his discretion for receiving the evidence at the trial. Then some questions for the public to think of. Was not the Judge's decision final and unappealable? Has not the public a right to claim it so? The other four questions (*WERMORE, J. 3*) upon which the majority of the Court quashed the conviction. Looking at the law from *Starkie* and *Chitty* above cited, and many other books, can it be doubted that it came within the Chief Justice's discretionary power to reject the questions put to *Sewell*, to *Young* and the rejections as to the purposes of the prisoners going to *Albert's house*, and as to what the people said in the loft? Can it be doubted that all these questions came properly within the Judge's discretionary power? Have not the public as much right and interest in the *rem judicatam* or thing adjudicated by the Judge's discretionary adjudications as to his administration of any part of the law? Can the trial Judge, months after the circumstances of the decision have gone from his memory, sitting in another Court with other Judges never present, go back upon his discretionary adjudications and reverse them, exercising a discretion upon a discretion by each Judge according to his own fancy, wholly defeating seven convictions for

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