

tude are concerned, is it not even more likely to be true of colonial judges, who are called upon to fill important positions—sometimes with comparatively little previous training—and, in still greater degree, of the average justice of the peace, who has not (or at any rate need not have had) any such training at all.

It is with the discretion vested in these two classes that the writer proposes to deal, such personal experience as he can claim having been acquired as a judge in one of our colonies, and as a justice of the peace in Ireland. His object, in so doing is to emphasize the importance of a right exercise of judicial discretion, and to suggest a method of checking its abuse.

To attempt, within the limits of this article, to deal exhaustively with a subject involving such intricate psychology as the punishment of crime would be absurd. It will be sufficient to point out some of the difficulties which beset the path of a conscientious, but inexperienced magistrate, and shew how they might be mitigated, if not entirely removed.

The thought must constantly occur to a judge when determining the penalty for an offence—be it a felony or merely some trifling misdemeanour—that a certain specific sum of money, capable of being measured to within a few pence, or a certain term of imprisonment, capable of no less accurate definition, would, if he could but gauge it, exactly meet the requirements of the case before him. To exceed or fall short of this measure must involve an act of injustice, either to the individual whom he condemns, or to the community at large—perhaps even to both.

It will no doubt be contended that, from a practical point of view, such exactitude is impossible—that individual cases require individual treatment, and so forth. This may readily be admitted, and the writer does not propose that the discretion of those holding judicial authority, however humble, should be limited by hard and fast rules incapable of relaxation. In the inferior courts, however, some form of restraint might with advantage be imposed upon the arbitrary exercise of judicial or magisterial discretion, without endangering its principle, or in