

may be described as being any writing upon a political subject adverse to the existing state of things, and such that the jury think the writer ought to be punished. In the latter part of the last century this branch of the law was the subject of a great controversy between judges and juries. The judges held that it was the duty of the jury to convict the accused if it was proved that he had written or published the matter said to be libellous, and that such parts of it as were not stated in express words, but by way of allusion, abbreviation, or the like, had the meaning ascribed to them in the indictment, and that it was the duty of the judge to say whether the matter so published was or was not a libel. Juries were continually told by the counsel for accused persons that it was their duty to determine the whole matter—the criminality or innocence of the alleged publication as well as the fact that the matter alleged to be criminal was published. This controversy was decided in the year 1792 in favor of the jury by Fox's Libel Act. Political libels were prosecuted and their authors severely punished for many years after the passing of this act; but it is, I think, more than thirty years since there has been a successful prosecution for a political libel in England, though there have some within that period in Ireland.

I must pass very lightly over offences consisting in the obstruction or corruption of public officers in the discharge of their duties. I may observe, however, that perversions of the course of justice by whatever means were anciently known by the general name of "maintenance," that is, maintaining or supporting by unlawful means either party to any legal proceeding. All through the Plantagenet period this offence was common, and many acts of Parliament were directed against it. It was one main object of the erection, or at least of the extension and development of the powers of the Court of Star Chamber to deal with such cases. By degrees the offence of maintenance ceased to be prosecuted under that name, but different forms of the offence, such as attempts to corrupt or intimidate witnesses, or to exercise undue influence over jurors, are still occasionally punished. Bribery, perjury in its various forms, and conspiracies to defeat the course of justice, also belong to this class.

On crimes against the morals, health, and

general convenience of the public, I will make only one observation. As I have already observed in passing, a large addition was made to the criminal law of England by the decisions of the Court of Star Chamber. When that Court was abolished and after the restoration of Charles the Second, the Court of King's Bench not only recognized the decisions of the Court of Star Chamber, but to a certain extent considered itself as having succeeded to its authority as *custos morum*, and the judges claimed and exercised the power of treating as criminal any act which appeared to be at once immoral and opposed to the interests of the public. The publication of obscene books was first punished expressly on this ground. To some degree this power has been asserted even in our own day.

I now come to the great leading heads of the criminal law—the offences, namely, which are punished under one or other of the five acts passed in 1861, and which affect the person or property of individuals. Offences against the persons of individuals consist either in the destruction of life or the infliction of injuries short of death, or the infringement of rights inseparably annexed to the person, such as conjugal and parental rights, and the right to a good reputation.

No part of the law of England is more elaborate or more difficult to reduce to anything like order and system than the law relating to homicide in its different degrees. The act relating to offences against the person throws no light upon it whatever. It provides in a few words for the punishment of murder and manslaughter, but it assumes that the legal definitions of these offences are known. Of these definitions I have not space to write with anything like the fullness which they deserve. I will only say in general, that upon a full examination of the different legal decisions which have been given by the courts, and the different expositions of the matter which have been made by writers regarded as authoritative, it will be found that the apparently simple definitions,* already given and quoted below, require, in order that they may be fully understood, that answers should be given to the following questions:—

* "Murder is unlawful homicide with malice aforethought." "Manslaughter is unlawful homicide without malice aforethought."