

JUDICIAL ERRORS.

SELECTIONS.

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What honest man, asks George Eliot, does not feel rather tickled than otherwise on being taken for a housebreaker? Nay, how innocent soever he be, let him tremble. For, in the words of Chief Baron Pollock, "The annals of our criminal courts, unhappily, record many various instances where, by perjury or mistake (especially as to identity), by blunder or misapprehension, and sometimes by the misconduct and fatal indiscretion of the accused himself, a conviction has taken place which has been considered, upon further investigation, to be erroneous." One is panic-stricken, and takes to flight—

His flight was madness : when our actions do not,
Our fears do make us traitors.

Another, overwhelmed by the insensate impulse of some strange mischance, confesses. Fatal error ! In vain would he

Unspeak his own detraction, here abjure
The taints and blame he laid upon himself.

And how many, paralysed in the coils of immitigable circumstance, have perished the victims of judicial errors ! It may, indeed, be hoped that now-a-days instances of such fatal misprisions of justice are extremely rare. The reaction produced in the public mind, in the early part of the present century, by the occurrence of cases of wrongful conviction, such as that of Eliza Fenning, and by the increased sense of the value of human life, still operates beneficially. And not only is the law more humane, but those who administer it are now more cautious. Yet are we warned from time to time, by startling exceptions, that no precaution can be too great, and that whatever protection against error is afforded by the law of evidence cannot be too unswervingly sustained. It is not very long since that two brothers were sentenced to death in the county of Limerick—and one of them hanged—for a murder which was afterwards, in time to save the other brother, confessed by another criminal, who was himself under sentence of death for a different murder. We have not yet forgotten how Pelizzioni was sentenced to be hanged for a murder of which he was guiltless, and for which he would have been hanged but for the persevering exertions of Mr. Negretti. And it was but in 1869 that Bisgrove and Sweet were convicted, when, had it not been

for the timely compunction of Bisgrove, Sweet, though wholly innocent, would have been hanged. In the same year an extraordinary case of a judicial error was brought to light by an appeal before the Imperial Court of Nancy. Adèle Bernard, a girl twenty-two years of age, had been brought to trial, in 1868, on a charge of infanticide. The prosecution alleged that in October, 1868, she clandestinely gave birth to a child and threw it into a pigstye, where it was eaten. This allegation was confirmed by her own confession both before the Judge of Instruction and in open court. Moreover, a midwife and a parochial surgeon certified that they examined her immediately after her arrest, and found traces of recent delivery. On this evidence the correctional tribunal sentenced her to six months' imprisonment for the concealment of the birth of a child who was not proved to have been born alive. She went to prison accordingly, and about a month later, on December 24, she was delivered of a fine healthy child, perfectly formed, and born in altogether normal conditions. The time allowed for her appeal against a sentence which circumstances appeared to show was manifestly unjustifiable had then expired, but the public prosecutor lodged an appeal in her interest. When interrogated by the president of the Appeal Court, she said that she had been induced to make a false confession by her mother and the midwife, who told her that if she confessed the crime she would get off easily, whereas if she persisted in denying the accusation she would certainly be condemned to fifteen or twenty years' imprisonment with hard labour. Some medical evidence was produced before the Court of Appeal to show the bare possibility of a superfetation. But the Court rejected this hypothesis ; held that she had been impelled by intimidation to make a confession for which there was no foundation ; and reversed the verdict against her. One is reminded of the similar case of Madame Doize, an innocent woman who had been driven to confess herself guilty of a murder in order to get released from the torture of solitary confinement.

O white innocence,
That thou shouldst wear the mask of guilt to
hide
Thine awful and serene countenance
From those who know thee not !