

from "heinous" and involve no requires to be could be most

THE PERSON, if Penitentiary of "ASSAULT" offence, and assaults now be "heinous" on conviction word "only" for its great

against the ad- subornation ought to be r "heinous" verdict should order to meet nces against s well as to the law, as proposed that be inangu- adopting the is as incur a and are not nces should e last word se if so fol- e trespass of sions of all a penalty not restitution if ensation for

us the finding urns's Justice, traverse). It

injury or loss, *if the party aggrieved were not a witness*, and FORFEITURE to the Crown to the amount if he was. The remedy to be summary, as in "dog stealing," "damaging property," &c., &c.,—the alternative for non-payment to be proportionate imprisonment, not exceeding 6 (six) months. That no person should be convicted for a heinous crime against property, which might be adequately treated as penal trespass. Attempts to commit, or suborn to commit, or unsuccessful conspiracy to commit acts punishable as penal trespass, should themselves be penal trespass. If any person were plainly shewn to have committed a "heinous misdemeanor" against property who had been, previously, three different times convicted for three several penal trespasses, or who had been lawfully detained at any time in the Penitentiary, or if the UNRECOVERED UNACCOUNTED FOR PRODUCT OF THE CRIME should amount to *forty dollars*,* such person should be dealt with as though "penal trespasses" did not exist. If the judge at any trial were of opinion that the magistrate had improperly treated the case as "heinous misdemeanor," he should *discharge* the jury and *direct the magistrate* to do his duty as it ought to have been done in the first instance. (This would prevent the cases being shirked.) But if the judge thought the case one properly sent before him, yet that, from circumstances (*and provided the accused had never been a convict in the Penitentiary*), a conviction for "heinous" crime would entail too great a punishment, then the *verdict* should be taken for penal trespass. It would be well, perhaps, to give power to enter up such a verdict, even if a jury should wish to convict of a greater matter; and so wherever I have put the word "taken" as to a verdict. So, in cases involving "destructive" rather than predatory offences against property, if the Court be of opinion that, from the circumstances, *and provided the accused never was in the Penitentiary*, the verdict should be taken for "damaging property," or for "cruelty to animals" if the offence was against "live stock," and the judgment be with all costs. And otherwise as if by a ma-

* This sum imprisons for debt, therefore I have selected it as supported by a kind of precedent. Moreover, it would confine the summary cases within the range of "proportion," elsewhere laid down, a very few just a little exceeding it.