on it is a rough expedient. These reasons appear to me to show that the right to move for a new trial in criminal cases would not supply the defects of the present state of things, and would probably introduce new evils. It would extend too far the litigious theory of criminal justice which already exercises quite influence enough on our law." The learned writer next asks: "Ought we, then, to institute a Court of Appeal?" and pointing out that criminals would exercise the right of appeal in almost every serious case if it were only to delay the execution of their sentences, and that the effect would be the practical abolition of trial by jury, and that jurymen's sense of responsibility would be greatly diminished, he answers the question in the negative, and says that "what is really required is a check upon the miscarriages which, in very peculiar and intricate cases, are produced by the application of that mode of inquiry which is found to be most efficient in common cases. The necessity for this check is admitted by the supervision actually exercised over the verdicts of juries by the Home Secretary. Indeed, the existing practice not only admits the evil, but provides a remedy, right in principle, though administered in an inconvenient and objectionable manner. The principle is right, because it leaves the discretion of permitting an appeal in the hands of the Government. The mode of administration is wrong, because under it a function which is really judical is discharged by an irregular, irresponsible, and secret tribunal, consisting of a single statesman who has no special acquaintance with law and no judicial experience, who can neither examine witnesses nor administer oaths, and who consummates an irregular procedure by pardoning a man for guilt on the ground of his innocence." Sir Fitzjames Stephen then proposes that the Legislature should establish a Court and procedure much resembling that improvised the other day by the present Home Secretary, with the addition only of argument and publicity. "In order to protect the constitutional authority of the jury, it would be necessary to provide expressly, as a condition precedent to the summoning of the Court, that the Secretary of State should certify that new evidence had been discovered, or that the judge should certify that he was dissatisfied with the verdict." . . . "This improvement," the author adds, "would leave one considerable abuse unaffected; it would provide security against wrong convictions but not against wrong acquittals;" and he suggests that the judge at the trial ought to have the power of requiring material witnesses, not placed in the box by counsel, to be called, and, if necessary, of adjourning the case till they were produced, and discharging the jury from giving a verdict on insufficient evidence.

To solve the problem as to the expediency of new trials for felony, it seems to us necessary only to reconcile the following propositions: Fiat justitia, ruat cælum; Interest reipublicæ ut sit finis litium; Nemo debet bis vexari pro unâ et eadem causâ; and "an Englishman should be tried by his peers."*—*Law Journal.*

REHEARINGS IN CRIMINAL CASES.

The Home Secretary has advised the Crown that Louis Staunton, Patrick Staunton, and Elizabeth Staunton should undergo penal servitude for life, and that a free pardon should be granted to Alice Rhodes. So ends the famous Penge case, which perhaps has proved of some practical utility, directing attention to the question of rehearings, appeals, or new trials in criminal cases. It is remarkable that, often as the subject has been discussed, it has never been more fully comprehended; and therefore the evils which arise and the difficulties which beset it have never been understood. One proof of

* It is announced in the English newspapers that a bill will be brought before the British Parliament next session for the formation of a Court of Criminal Appeal. Sir Eardley Wilmot, M. P., formerly a County Court Judge, at Bristol, proposes in this bill that appeals shall be permissible only in cases of capital sentence, and that a prisoner condemned to death may appeal by himself or through his solicitor for a remission of his sentence, the court to consist of the three chiefs of the High Court of Justice, the three senior judges, and the Home Secretary, five to form a quorum. The Court may hear counsel for the prisoner and for the Crown, the expense of both counsel to be defrayed by the State, and the judgment of the court shall not be valid unless arrived at by at least two-thirds of its members. We much doubt the wisdom of this move.—Eds. L. J.]