the many discern the abuse, we trust the few who have hitherto acted as if blind to it, will in future discern it, and act accordingly. If not, the courts must be invoked to maintain the majesty of the law. Public opinion is deeply interested in the pure administration of justice, and will abundantly sustain any effort necessary in the direction we have indicated; and the public, in the interest of the laws of decency and propriety, may be compelled ere long to ask if in Canada we have judges of such an independent spirit and unswerving purpose as Lord Hardwicke, Lord Hatherly, or the present Vice-Chancellors, Malins or James.

SELECTIONS.

CAPITAL PUNISHMENT.

The advocates of capital punishment abolition sustained on Wednesday last their customary defeat, and as long as these reformers aim at abolishing capital punishment *in toto* it may be anticipated, and must certainly be desired, that their measure will always meet a similar fate. Last year the defeat took place on a motion made by Mr. Gilpin (the introducer of this year's measure), during the passage of the Capital Punishment within Prisons Bill. On that occasion, Mr. John Stuart Mill argued very forcibly against the abolition, founding his argument on the deterrent effect of capital punishment upon the criminal classes.

The arguments adduced last week did not comprise any addition to those which have been adduced on previous occasions. A large portion of the argument employed usually consists in the recapitulation of particular instances of hardship, real or assumed; here, of course, the instances selected vary from year to year; but, with this exception, there is no novelty.

The position of the abolitionists consists partly in a sort of assumed rule of progress. Capital punishment, they say, has been abolished from time to time for the minor offences, and the result has justified the abolition; hanging for murder now remains the sole remnant of a bygone system; in obedience to the irresistible march of improvement it is time that this too were swept away. If it were an established law that alterations must always proceed in the same direction, that there is no resting place at which reformers can say, "hold, enough," politicians and political economists of the obstructive and antediluvian school would have a very heavy weight thrown in their favor. We should fear to redress even the grossest abuses from dread of committing ourselves to a ceaseless progress which might end by landing us at an extreme ten times more grievous than its opposite. That we abolished hanging for sheep stealing, and, as we believe, with good effect, is no reason why we should do away with hanging for murder. The position starts with a *petitio principii*, that it is expedient to abolish—which is precisely what has never yet been shown

The question is purely one of expediency, but before discussing what is the real gist of it, the question of deterrent effect, we may notice an argument generally urged, and which was urged last week by Mr. Gilpin, that capital punishment is irrevocable. If you condemn a man to imprisonment for life, and it is afterwards proved that he was innocent, you can release him; but you cannot restore him to life if you have had him executed, This is a drawback, a disadvantage attendant on the infliction of death as a punishment. But it is far from being so weighty as the abolitionists seem to fancy. In the first place, it is a drawback which, in a greater or less degree, according to the severity of the punishment, coupled with the sensitiveness of the recipient, applies to all penalties. In no case can you do more than remit the infliction to come; you cannot recall the past. If you have sentenced the convict to ten years' penal servitude, you can remit the nine years to come, but you cannot recall the one year which he has endured, any more than you can compensate him for the shame and the pain of the exposure, the trial, and the unjust conviction. We have never heard it advanced as an argument against flogging garotters, that if a conviction for garotting proves unjust, you cannot unflog the innocent convict. The number of innocent convicts for capital offence is so infinitesimally small that there can be no ground for altering the system on their account.

There is also urged another argument proceeding somewhat in the opposite direction to this. It is said that in consequence of death being the penalty for murder as now defined by the law, many criminals escape altogether, because the juries will not inflict death for certain offences: *exempli gratiâ*, infanticide. The case of infanticide is a peculiar one. It is perhaps scarcely desirable to make any distinction which would amount to enacting that the life of a child is not as valuable as that of an adult. At the same time infanticide proper, that is, the murder of a child at the birth, is certainly considered not so heinous an offence as the murder of an older person, as is shewn by the readiness of juries to acquit in such cases. The rule of law that murder can only be committed of a child completely born and severed from his mother has prevented vast numbers of convictions which otherwise must have taken place, but where mortal injury is inflicted on a child in this position the guilt is really quite as great as if the child had been completely born and the violence inflicted immediately afterwards. It would in our opinion be a great improvement of the law to enact that upon any charge of infanticide—that is, of murder by a mother of her child at the time