manslaughter only, and settled the case by itself entering the verdict of manslaughter and imposing the appropriate sentence, thus displaying a business-like latitudinarianism in practice. The trial court records show a liberal use at common law of preliminary measures to define the grounds of controversy for the convenience of the court and the jury on a trial, as with audits of accounts, and with surveys and plats of boundary lines of land in dispute; and the machinery for procuring the surveys and plats was within the space of four or five years freely altered by the courts, first by substituting three advisers or guides in the place of the full inquest of twelve previously used, and then by dispensing with the three and utilizing the services of only a sheriff and a surveyor.[1] This free handling of procedure does not, however, mark the age as a golden one in judicature; on the contrary, witness the consequence attached to the difference between "his Majesty" and "his late Majesty" in the dating of trial and judgment in a writ of error and the record returned to it, respectively.[2]

Some of the decisions recorded here will strike the modern reader as arbitrary; and the record of proceedings in *Hicks v. Lecompt* or *Seward*,[3] affords a glimpse of rough conduct in a trial court, with the chief justice threatening to strike one of the attorneys if he continued talking, and a juror interrupting a trial to say that he had heard enough. The threat of the chief justice drew a complaint, as something exceptional and improper, but there may well have been a freedom of speech that may now be thought inconsistent with the proper judicial attitude, for the attitude now customary was just then becoming prevalent. There was a difference between the behavior of judges generally before the Revolution of 1689 and in the period that followed. In Sir John Holt, lord chief justice from 1689 to 1710, says Foss,[4] the encyclopaedic historian of English judges, "may be fixed the commencement of a new era of judicial purity and freedom, marked with that perfect exemption from extraneous influences which has, with few exceptions, ever since distinguished the bench, and which is now the undisputed glory of our judicature." It may be that the province did not have its ablest men on the bench, but it had leading men, and men from among its most respected; and the fact is one of significance. For, important as may be the intellectual work in the administration of the law, it remains true that the worth of judicature must ever depend to a great extent upon the valuation of it by the litigants, and, in that valuation leadership in the men on the bench, which seems to accord with the power and authority of justice and to give assurance of superiority in qualities demanded for the judicial function, is a factor of no small influence.

[1] Kilty, *op. cit.*, pp. 133 *et seq.* Note to Shaw *v.* Lynes (1683), 1 Harris & McHenry, 18.
[2] *Post*, p. 126.
[3] *Post*, p. 462.
[4] Edward Foss, *Biographica Juridica* (London, 1870), 351.