

of a witness arising from infamy, or the like, may be known; yet his interest, or any incompetency deducible from his own disclosures cannot be known; and therefore it is, that articles of impeachment are allowed to be filed after publication, as all such matters are until then sealed up in secret. (*j*) And besides, even if such a course were allowed to a party, the delays he might interpose, by such objections, might be multiplied without end; and, by a sinister ingenuity, a cause might be interminably procrastinated. Hence there is no trace to be found in the English books of any such objections ever having been attempted to be made.

It is a fundamental principle of our law, in criminal matters, that the accused shall have a public trial; and it is manifestly beneficial to all, that the administration of justice, as well civil as criminal, should be open and public in every stage, and in all its branches. It is one of the greatest safeguards of the rights of the citizen, that all judicial officers should be subjected to the salutary influence of public opinion; while on the other hand publicity is the best and the strongest protection, that an upright faithful officer can have or desire. (*k*) This publicity of judicial proceeding which existed in all parts of Europe governed by the Roman law; (*l*) and under those governments which arose immediately out of the fall of the Roman empire, was first abolished, by the papal decretals, towards the close of thirteenth century. The Pope believed, that the secrecy of judicial proceedings would furnish him with a more certain means of extirpating heretics; and the civil tribunals adopted, in succession, an innovation which relieved them from public censure, by concealing the errors they were liable to commit; while the veil of mystery, which enveloped their proceedings, was calculated, in the eyes of the vulgar, to invest them with an air of greater importance. (*m*) The English Chancellors,

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(*j*) *Purcell v. McNamara*, 8 Ves. 326.—(*k*) *King v. Daly*, 1 Ves. 270. In the matter of Lord Portsmouth, *Coop. Rep.* 106. The Chancellor's case, 1 Bland, 681, note; 4 Laing's *His. Scotland*, 254. 'It is, however, to publicity more than to every thing else put together, that the English system of procedure owes its being the least bad system as yet extant, instead of being the worst. It is for want of this essential principle, more than anything else, that the well meant labours of Frederick and Catherine, in the field of justice, have fallen so far short of the mark at which they aimed,' *per Bentham, Park. Hist. Co. Chan.* 5. 'I know that it is one of the best securities for the honest exercise of a judge's duty, that he is to discharge that duty in public.'—*Per Eldon, Chancellor; Wellesley v. Beaufort*, 3 *Cond. Chan. Rep.* 9.—(*l*) *Adam's Rom. Ant.* 241, 255; *Kennett's Rom. Ant.* 153.—(*m*) 1 *Hallam's Mid. Ages*, ch. 7; 1 *Lond. Jurist*, 251