

rated crimes either have their sentence mitigated to transportation or confinement in prison, or receive absolute pardon. The severity decreed by the law, it seems, is deemed necessary to deter a thief from stealing a sheep; but the government shrinks from inflicting the penalty, for fear it might put the common sense of humanity and justice to a trial beyond its endurance. It was this fact that induced a distinguished writer to say, "Severe statutes often become a charter of impunity to the crimes which they are intended to punish," and the truth of what he said is abundantly proven by a reference to the returns made to Parliament. In the seven years from 1823 to 1830, there were 12,023 persons arrested in England (excluding London and Middlesex, from which we have no returns) on charges which affected their lives;—1,205 were discharged from prison, and the prosecutions against them abandoned without trial; and 3,814 were cleared by the jury. It is estimated, by writers on this subject, that of those who were discharged from prison without trial, more than one half were guilty, but were permitted to go unpunished by the witnesses refusing to appear and testify whose testimony could have convicted them, because the crime charged was punishable with death, and the repugnance among the people to aid in such prosecutions;—and of those who were acquitted by the jury, more than two-thirds were actually guilty, but were cleared for the want of evidence, withheld for the above reason, or from the strong objection which most of the juries of that country have to finding a man guilty of a capital crime; and further, that thousands who commit capital crimes are never even arrested, because many men will not prosecute them, and that of those who are tried and convicted, not more than one in ten suffer the penalties of the law.

It is very clear from this that the punishment of death, which, in England, is denounced against the life of so many criminals, so far from being an effectual means of preventing crime often presents obstacles to the conviction of those who commit it; and that the very name and apprehension of the sentence of death is a detriment to the cause of justice, however weak it may be as a check, to the violation of it, with the offender, and often the whole train of the judicial proceedings might be taken for an arrangement to protect the culprit, and to save him, if not from all punishment, certainly from that which the Legislature had appointed.

The temper of the age will not allow sanguinary and cruel laws to be enforced. Their very punishments interfere to save the offenders. And even if they could be enforced they would only shock humanity not make the world better. At the time when they were in full operation in England they failed to produce that moral influence which was the chief object. Under the milder, but still rigid laws which now exist in that country the progress of crime is not stopped by declaring so many crimes capital. The terrors of the gallows can have but little good effect when we find upwards of 12,000 persons