

IV.—*On Religious Toleration for Criminals.* By Edward Gibson, Esq., A.M., Barrister-at-law.

[Read Tuesday, 21st May, 1867.]

THE treatment of criminals and the discipline to which they should be subjected whilst undergoing their sentences, is a wide and interesting subject—a subject that involves momentous considerations. Many regard the deterring influence on others of the punishment for crime as that which makes it necessary and advantageous, others look principally to the criminal, and regard solely his punishment as the proper expiation of the offence he has committed against the laws of his country. Opinions vary again as to the weight to be given to the conduct of the criminal whilst in prison; many thinking that an unobjectionable demeanour, strict attention to discipline, and general good behaviour, may be taken as symptoms of a complete reformation, to be rewarded by substantial tokens of approval; many, on the other hand, decline to believe that this conduct can be regarded as more than evidencing a wholesome dread of jail discipline, or else a masterly hypocrisy assumed to gain rewards from credulity. Again, a warm and eager controversy is now agitating the public mind as to the treatment of political offenders; and indeed this is one of the questions of the day. The advocates of separate treatment urge, with great force, that it is unjust to subject men whose aims may be disinterested and private life stainless, to the loathsome companionship of common-place felons; while the government, without conceding the principle contended for, assert that the task of ascertaining the character of the offence would be alike invidious and difficult. There are grave differences of opinion upon these great questions. I am not going to treat of them, and I have alluded to them merely because their dignity and importance demand that they should be noticed in any paper at all connected with prison discipline. I wish to ask attention to a portion of that discipline that has been very little noticed. I am not about to trespass on the office of the prison chaplain. My object is indicated by the title of my paper. I wish for an enquiry into the extent and limits of religious toleration afforded to criminals in Ireland. It is not many years since the Protestant prisoner alone was permitted to receive the ministrations of his clergy within the walls of that jail in which, if the criminal should be punished, he should assuredly be permitted, after his own fashion, to pray to his God for penitence. That exclusive system was abandoned in deference to the imperious demand of a more enlightened age, and now the doors of the Irish convict prisons are freely open to admit Roman Catholic and Presbyterian chaplains. But there are other forms of religious belief besides the Protestant, the Roman Catholic, and Presbyterian; and there are, unfortunately, some who have no belief at all; and my present object is to draw attention to the discipline to which those who do not conform to any of the favoured religions are subjected in the convict prisons of Ireland. That object can be achieved in a very few sentences—indeed, by quoting the following words used by Mr. P. J. Murray, the eminent director of Irish Convict Prisons, at p.

20 of the annual report for 1866 :—" All convicts are bound by the rules to attend some place of worship, and each convict prison has a Protestant, a Roman Catholic, and a Presbyterian chaplain. The prisoner takes his choice, and can change, if he pleases, after due notice." The meaning of that is this—that if a man is a Quaker, or belong to any of the great dissenting communities, or be a Jew, or Mahomedan, or, as may unfortunately happen, an Atheist, he must select one of three religions, everyone of which he disbelieves, and conform to a creed which, to him, is a mockery. A prisoner *must* conform to one of the three religions ; he will be punished with all the rigour of prison discipline ; he will be given cells and bread and water, if he tries to stand by the religion of his fathers and of his innocence. Such a prisoner must, if he wishes to escape punishment, with his jail clothes, assume a jail religion. There are many crimes against the laws of our country that do not involve moral turpitude, such as offences of a purely political nature ; is it not monstrous that men convicted of such offences should, in addition to the sentence pronounced in open court, be further punished by being compelled not only to abandon their own religion in which they believed, but also to assume another religion in which they could not believe ? Don't imagine that this is a paper, sentimental grievance. A strong practical illustration of the evil to which I have been adverting may be found in the Medical Officers' Report of the Mountjoy Prison for the past year, in the case of J. Murphy (Registered No 7,041), mentioned in p. 20 of the thirteenth Annual Report of the Director of Convict Prisons in Ireland. I insist that this part of Irish convict discipline is indefensible—in the days when Roman Catholic priests were not allowed to enter jails to perform the services of their religion, no one ever ventured to say, I believe, that Roman Catholic prisoners should be compelled against their consciences to attend a Protestant service. It may be said, the Roman Catholic prisoners were too large a class—we cannot regard small minorities. My answer is—that it is the peculiar boast of the Irish convict system, that its discipline has been established to punish and reform the individual prisoner ; and that it is false to its own idea if it disregards the most sacred part of a prisoner's individuality, the religion to which he looks for salvation. It may be urged that if it is conceded that each prisoner may select whatever religion he chooses, many will avail themselves of this privilege to escape the irksomeness of attending any service. I answer that every prisoner looks forward to Sunday and its services as a day not only of rest, but of pleasant change and association, and that abstinence from attendance on religious services, which may soothe and employ the mind, is powerful evidence in favor of the *bona fides* of the objection. Their choice is not between religious service and levity or dissipation ; it is simply a choice between a religious service they don't believe in, and solitary confinement within the four walls of their comfortless cells. This is what I ask in the name of religious toleration for the Irish criminal—I ask this and nothing more. It will not, I should hope, be ever urged that any religion, whether he believes in it or not, is good enough for a criminal ; such an excuse would prove too much, it would prove that the

choice between three religions was too wide, and that one was enough, or may be too much. We should never pry into the consciences of other men, the tie that binds man to his Maker is a sacred one, and any system that seeks to save a prisoner by a religion he does not believe in, incurs a very great responsibility.

V.—*A Central Criminal Court for the County and City of Dublin.*
By Constantine Molloy, Esq., Barrister-at-Law.

[Read Monday, 24th June, 1867]

PREVIOUS to the year 1729 all serious offences, such as treasons or felonies committed in either the city or the county of Dublin, were triable only at the bar of the Court of King's Bench in term time, or under a special commission, and the duty of discharging the gaols of the county and city of Dublin was performed by the Court of King's Bench. To obviate the inconvenience arising from this state of the law, a statute was passed in 1729, 3 Geo. 2, chap. 15, entitled, "An act to provide for the more speedy trial of criminals in the county of the city of Dublin, and county of Dublin," by which it was enacted that commissioners, to be appointed under any commission of oyer and terminer, or of gaol delivery, under the great seal of Ireland, should be empowered to meet and sit, if the said commissioners think fit, in that part of the King's Court where the Court of King's Bench sits, and there to deliver the gaols of the said respective counties; and the said commissioners were also authorized to hear and determine all crimes and offences committed in the county of the city of Dublin, and county of Dublin.

The Four Courts on Inns Quay having been erected in 1796, the 35 Geo. 3, chap. 25, was passed, by which the whole site and area of the Four Courts were declared to be both in the county and in the city of Dublin for all intents and purposes. The courthouse at Green-street was then in course of erection, and the same statute declared that as soon as the courthouse at Green-street should be finished, so as to be fit for the holding of the sessions of oyer and terminer thereon, the whole area and site of the courthouse at Green-street should be deemed and taken to be both in the county and city of Dublin, since then the commissions of oyer and terminer and gaol delivery for the county and city of Dublin have been regularly held at Green-street, with only two exceptions, once in August, 1831, and again in August, 1837, when the courthouse was occupied for the purpose of electing the city members of Parliament, and on those occasions the commission court sat in the Four Courts, and all the prisoners were tried there.

The Commission court at Green-street is a court of oyer and terminer and gaol delivery. It sits six times each year, and its sessions are held under two distinct commissions, one for the county of the city, and another for the county of Dublin. The commissioners are the same persons in each commission, with this exception, that in