

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.

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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

the commission for the city, by reason of a privilege granted by ancient charter, the Lord Mayor is named as one of the commissioners, and usually attends with two of the Judges at each opening of the commission, after which he retires, and leaves the duties of the commission to be performed by the Judges alone.

Although offences committed within the city may be tried under the county commission, and by a county jury, yet in practice it very seldom happens that a city offence is so tried. Two panels of jurors—one for the county and another for the city—are always summoned, and have to attend. Now this summoning of two panels of Jurors is productive of much inconvenience and additional trouble to the jurors. It has the effect of virtually doubling their duties, for the jurors on either panel would be amply sufficient for the discharge of all the duties which both panels have to perform; yet in consequence of the commission court sitting under two separate commissions, it is necessary to summon two distinct panels for the trial of prisoners.

The recent special commissions of 1865 and the present year, show a further inconvenience that arises from having two separate commissions for the county and city of Dublin. Very many persons are summoned as jurors who are not qualified. Residence must always form an essential part of the juror's qualification. In 1865 the prisoners were tried under the special commission for the city, and several jurors at each of the trials were disqualified because they did not happen to reside within the city boundaries. At the first of the trials, the first of those jurors who answered was questioned in this way:—

Mr Juror, where do you live? Monkstown.

Where is your place of business? Grafton-street.

Did you ever sleep in Grafton-street? Never.

Monkstown is in the county of Dublin? It is.

By the *Attorney-General*.—You say your place of business is in Grafton-street? Yes.

Have you any bed-room there? No.

The *Attorney-General*.—We will allow the challenge.

On this trial forty-three jurors were so disqualified, and about the same number on each of the other trials, and the vast majority of those who were so disqualified, were possessed of property within the city more than sufficient to qualify them, if they happened to reside within the city. At the special commission this year the prisoners were tried under the commission for the county, and it so happened that a large number of the jurors who were disqualified for non-residence at the city commission of 1865 were summoned as county jurors, but a great proportion of them were again disqualified, on the ground that though they possessed the qualification of residence, they were only tenants from year to year, or had some other short tenure of the place where they lived, and so were not qualified.

Again, if the trial of a felony committed in the county lasts beyond the day, the jury cannot be sent to a hotel, but it is necessary to keep them as it were imprisoned in the courthouse at Green-

street during the whole of the trial. During the late special commission many of the trials lasted several days, during which it was necessary to keep the jurors within the courthouse, because if they happened to go outside the courthouse, even for the shortest distance, they would pass into another county, and there would be a mis-trial; while if the gentlemen who were so confined happened to be sitting as a city jury, they could be sent to the Gresham, or some other hotel, and provided with proper accommodation. The hardship to which county jurors are thus subjected when serving upon any protracted trial, is one that loudly calls for amendment. This inconvenience, as well as the others to which I have referred, would be obviated, and the administration of the criminal law for the county and the city attended with much less trouble, if the necessity of having two separate commissions were dispensed with, and a Central Criminal Court established instead, which would have jurisdiction to try all offences committed both in the city and the county of Dublin. All that is required for this purpose is a short Act of Parliament, rendering the county and city one venue for criminal trials, and authorising the issuing of a commission of oyer and terminer and gaol delivery, under which all offences committed within that venue might be tried. It would not be necessary to interfere with any existing offices, even the ancient privilege of the Lord Mayor would not be affected by such a change. He could still be one of the commissioners constituting the new Central Criminal Court.

If a precedent were required for the establishment of such a court, it is to be found in the act 4 and 5 Wm. 4, chap 36, establishing the Central Criminal Court in London. Before the passing of that statute, there were two separate commissions, one for the county of Middlesex, and the other for the city of London, under which the Judges sat at the Old Bailey for the trial of offences. As London increased in size, and extended itself into the adjoining counties, the necessity of having separate commissions was found to be disadvantageous; and in the year 1834 a statute was passed establishing a Central Criminal Court for the trial of all offences committed within the city of London, the county of Middlesex, and certain parishes adjoining London in the counties of Sussex, Kent, and Surrey.

The circumstances to which I have already briefly referred, are sufficient to show the expediency of having but one and the same commission for the county and city. This can only be effected by an Act of Parliament empowering the Lord Lieutenant to issue such a commission, and establish a Central Criminal Court. The constitution of such a court is a matter of no difficulty, and would afford much relief to those who are obliged to discharge a great constitutional duty by serving as jurors at Green-street.

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