

# SIR SAMUEL ROMILLY: TORCHBEARER OF THE LAW.

Law is a mirror turned to reflect the past. The worship of precedent, a device that gives legal descent to the mistakes and errors as well as to the facts and realities of other days, tends to make it static. The lengthened shadow of the ages falls across the latest statute of our legislatures and the most recent decision of our courts.

And what of the lawyer? The pawn of his environment, he becomes subdued to the tools with which he works. Shackled and bound by traditions on which the dust of centuries has collected, he is conservative in thought and non-progressive in outlook. As Joseph N. Ulman so well puts it, the lawyer keeps his eyes in the back of his head. Like Lot's wife, he looks backward.

Legal science, in its wisdom, builds slowly but surely upon the firm rock of past experience and not upon the shifting sands of innovation—thus does the lawyer answer to the charge that he is conservative and non-progressive. But his answer may not be taken as a complete and unqualified defence. Natural science, which has a virility lacking in legal science, has had to make, not one but many, well-defined breaks with the past to keep abreast of human enlightenment. Galileo, Descartes and Darwin had to sweep the cobwebs from the corridors of antiquity before they could bring light into darkness and rout the entrenched forces of falsehood with their resistless artilleries of fact.

As things are so let them remain is the attitude of the average lawyer to the law. He is the enemy of change, not altogether because he fears change, but because of his attitude of mind which is but the reflection of the atmosphere in which he works. He is pot-bound by his environment.

Legal reform seldom comes voluntarily from within the profession. As that cautious observer, Professor Edward P. Cheyney, says: "It would be hard to find in the whole history of the Courts any judicial decision that has carried human liberty further forward, removed any old abuse, or been conducive to social progress."

The law does move forward, of course, but at a snail's pace. It lags behind other social sciences and is completely out-distanced by the physical sciences. And the lawyer fails to see the mote in his own eye. He has grown up with a system and, as Sir Edward Parry points out, it is difficult for him to

see anything wrong with that system. Self-complacent, almost smug, he regards the law as the perfection of human wisdom. But the picture need not be painted in gloomy colours, for there is hope. The lawyer is coming more and more to see himself as others see him. Gradually, inch by inch, he is becoming the advocate of legal reform instead of its most unrelenting foe. He is seeking to bring the law into conformity with the day that is here; he is less insistent in his demands that it conform to the day that has gone.

There have been in the past and there are today, lawyers who are not conservative, lawyers who are in step with social trends, who face the future with its hope and confidence, not the past with its dread and despair. These lawyers are the rare exceptions in the lawyer-pack. One of the most glorious of these exceptions is Sir Samuel Romilly, justly described by Augustine Birrell as the very perfection of a lawyer, a gentleman, and a member of Parliament. . . .

As Anatole France well says a man is already old when he is born, for he is the child of his parents and his parent's parents. He cannot deny his forbears. In his veins flows their blood; he is flesh of their flesh and bone of their bone. They are the stream in which his being has its source.

Samuel Romilly could make no just complaint against his forbears. They gave him the advantage of being well-born and well-bred. The Romilly's were originally a French family of wealth and culture. Etienne Romilly, Samuel's grandfather, had courage and a manly independence of spirit-qualities, which by some alchemy of heredity, are sometimes passed on from one generation to the next. A sturdy, self-reliant fellow, he asked to be left alone to make the important decisions of life for himself. Upon the revocation of the Edict of Nantes, rather than embrace a faith not of his own choosing, he left his native France and settled in England, where religion was a matter of conviction, not compulsion. In England, he began life anew, taking unto himself a wife, with whom he raised a considerable brood of children, who shared with him a fortune which fluctuated between a respectable prosperity and a stringent adversity.

Peter Romilly, father of the great legal reformer, circumscribed by a poverty which prevented his playing a more auspicious part in life, at an early age set himself up as a jeweller and watchmaker. In due course, he married Margaret Garnault, the descendant of a Huguenot family, a woman of character and culture, but who was handicapped by ill health.

Romilly was born in Soho, Westminster, on 1st March, 1757. None too robust at birth, he developed into a sensitive, highly-imaginative youth, on whose mind the subtlest of impressions left its trace. Because of his mother's periodic invalidism, his upbringing was left largely to the mercies of an old-maid aunt and a superstitious maid-servant, neither of whom was well-fitted for the task. This worthy pair introduced him to a world peopled with ghosts and hob-goblins, martyrs who suffered death on the cross and criminals who died on the gallows. Their training had the effect of making him more introspective and imaginative than ever.

Romilly had few educational advantages, but he had something vastly more important—a genuine desire to become an educated man. Sent by his father to a school kept by a Huguenot refugee, a Parolles with sadistic inclinations, who spared neither the rod nor his pupils, he soon learnt all this man could teach him and then struck out for himself to explore the various provinces of knowledge. Imposing upon himself a rigid discipline, he all but ruined his health in the pursuit of learning.

Some direction was given to his studies by the Rev. Roget, a Genevese clergyman of liberal views, who later became his brother-in-law. A disciple of Rousseau, Roget introduced Romilly to 'Emile' and 'Social Contract', books which had considerable to do with the shaping of Romilly's philosophy of life.

One thing that Rousseau did for Romilly was to make him suspicious of all religion that seeks to confine itself within an institution with doors shut tight against those who are not of the same faith. Religious Romilly was, but his was a religion of the fresh air and the sunlight, which took the earth itself for its temple. A religion of doing, not of believing, Romilly's religion was woven into the warp and woof of his workaday life; it did not hang its head six days in the week only to show itself on the seventh. The words of the Persian poet seem to put Romilly's attitude toward the positive issues of religion in a nutshell :

To humankind, O Brother, consecrate  
Thy heart, and shun the hundred sects that prate  
About the things they little know about—  
Let all receive thy pity, none thy hate.

Romilly matured young. On the threshold of manhood, he was at a loss to know how he was going to compel life to stand and deliver to him the things closest to his heart. He

marked time serving in his father's jewelry shop waiting for something to turn up—and something did turn up. He was left a legacy, which led to his being articled to a clerk in chancery with a view to ultimately purchasing a clerkship. When his time under articles had almost expired, his father's business suffered reverses and Romilly advanced him the money with which he had intended to buy his clerkship. Not having the heart to ask his father for the return of the loan, he came to a brave decision—he would go to the Bar. There were a dozen who told him he would fail to one who said he might be a success. He lacked aggression, so his friends told him. But nothing daunted by their lack of faith in him, he entered himself at Gray's Inn in May, 1778.

Sensitive to new impressions, but with a mind of his own, Romilly was influenced considerably by the books he read. While contemplating going to the Bar, he came upon an *éloge* of Chancellor D'Aguesseau, and, as he himself put it, the French jurist's lofty ideal of the legal profession opened his imagination to new paths of glory. "Never pride yourselves," once said D'Aguesseau in an address to the French Bar, "on the miserable honour of having thrown obscurity over truth; and more sensitive to the interests of justice than the desire of vain reputation, seek rather to make the goodness of your cause than the greatness of your genius appear." Making the acquaintance of such sentiments as these at the formative period of his life started Romilly off with the right foot forward. He saw the law not as a business to be pursued primarily for dollars and cents but as a learned profession affording him an opportunity to discharge his debt to society.

While studying for the Bar, Romilly did not neglect his general education. He never became a mere specialist, a lawyer who was beyond his depth as soon as he got off the subject of law. With Sir Walter Scott, he knew that a lawyer without history and literature is a mere mechanic.

In 1777, John Howard, humane High Sheriff of Bedfordshire, lifted his voice in protest against prison conditions, by publishing his "State of the Prisons in England and Wales, with an account of some Foreign Prisons," in which he set forth the fruits of years of patient investigation. Some years after its publication, a copy of this book fell into Romilly's hands. His reading of it must be regarded as a landmark in his life. Howard's disclosures of the shameful conditions existing in English prisons were seed sown in fertile soil. They formulated

in Romilly's mind a desire to put his own shoulder to the wheel of penal reform. The effect Howard's book had on him is evidenced by a letter he wrote to the Rev. John Roget: "Have you ever heard," he asks his friend, "of a book published here some time since by a Mr. Howard, on the state of prisons in England and several other countries? You may conjecture from the subject that it is not a book of great literary merit; but it has a merit infinitely superior; it is one of those works which have been rare in all ages of the world, being written with a view only to the good of mankind. The author was some time ago a sheriff in the country, in the execution of which office numerous instances of abuses practised in prisons came under his observation. Shocked with what he saw, he began to enquire whether the prisons in the adjacent counties were on a better footing, and finding everywhere the same injustice prevail, he resolved, though a private individual, to attempt the reform of abuses which had become as general as they were shocking to humanity. Accordingly, he made a visit to every prison and house of correction in England, with invincible perseverance and courage; for some of the prisons were so infected with diseases and putrid air, that he was obliged to hold a cloth steeped in vinegar to his nostrils during the whole time he remained in them, and to change his clothes the moment he returned. After having devoted so much time to this painful employment here, he set out on a tour through a great part of Holland, Germany, and Switzerland, to visit their prisons. What a singular journey!—not to admire the wonders of art and nature—not to visit courts and ape their manners; but to compare the misery of men in different countries, and to study the art of mitigating the torment of mankind! What a contrast might be drawn between the painful labour of this man, and the ostentatious sensibility which turns aside from scenes of misery, and, with the mocking of a few barren tears, leaves it to seek comfort in its own distresses!"

On 2nd June, 1780, shouts of 'No Popery' resounded through the streets of London. A mob, sixty-thousand strong, under the leadership of Lord George Gordon, was on the march to Parliament to present a petition, demanding that Roman Catholics be not allowed the privileges the petitioners themselves claimed. Sixty thousand people cannot long be of one mind, and as soon as the petition was duly lodged the mob got out of order. For five days London trembled under the iron heel of a Reign of Terror.

Romilly shouldered a musket in defence of Gray's Inn which was thought to be marked out for destruction by the rioters as it housed a number of Roman Catholics. He was appointed to sentry duty at Holborn Gate. The heat by day and the damp by night proved too much for his feeble health, and he suffered a nervous breakdown. As he had always lived up to the limit of his strength, his recovery was slow.

In June, 1781, in an effort to retrieve his health, Romilly paid a visit to his friend Roget in Geneva. His visit not only had the desired effect on his health but it opened a new world to him, giving him an expanded mental horizon and an opportunity to make a comparative study of life in England and on the continent. Geneva was then the most liberal city in the world and Romilly made the acquaintance of men who were alive and thinking, among them Etienne Dumont, the man who was to give Jeremy Bentham to Europe.

In Geneva, Romilly was given an opportunity to take part in his first criminal trial. Three Savoyards were arrested on a charge of burglary. They were tried by Star Chamber, only counsel and two friends being allowed at their trial. One of the prisoner's counsel knew Romilly and suggested to him that he assist in the defence. On taking an oath not to give out any papers in the cause, Romilly was allowed to participate in the trial. The accused were convicted of the offence charged. According to Romilly, one accused, a lad of sixteen, was sentenced to be whipped and to serve twenty years in the galleys of France. One was forced to see his companion whipped, then exiled for life. The third fared rather better, banishment being the only penalty visited upon him.

In fairness to Genevese justice, Mr. C. G. Oakes, in his biography of Romilly (a work undertaken to fill a gap in literature, which it does so well as to leave nothing to be desired), says that Romilly does not give the complete picture, neglecting as he does to point out that the accused upon whom the severest sentence was passed had a criminal record as long as his arm.

Romilly was called to the Bar in June, 1783. His success in the profession of his choice was not of mushroom growth. He waited years, beset by doubts which his imaginative mind magnified out of their due proportions, for the tide which was to carry him to the leadership of the Chancery Bar.

Romilly did not take kindly to the practice of law. One of those rare souls who come once in a long while, he put the public weal before his own self-interest. Devoid of that counter-

feit brand of ambition which seeks self-glorification first, last and always, his genuine desire was to employ his talents for the benefit of his fellowmen. Nothing perhaps conveys the purity of his principles better than the following extract from a prayer which he published in his *Memoirs*: "I prostrate myself, O Almighty Omniscient God, before thee. In endeavouring to contemplate thy divine attributes, I seek to elevate my soul towards thee; I seek to improve and ennoble my faculties, and to strengthen and quicken my ardour for the public good, and I appear to myself to rise above my earthly existence, while I am indulging the hope that I may at some time prove a humble instrument in the divine work of enlarging the sphere of human happiness."

Here it is well for a moment to compare Romilly and Brougham, two men so much alike yet so different. Both broke a lance in the cause of law reform. Both were men who stood far above the crowd. Romilly was the supreme altruist of his day. Brougham seldom had an aim that did not end in self. Romilly was the most modest and retiring of men, Brougham had a passion for basking in the spotlight of public attention. What they had in common was a burning hatred of injustice and a desire to do all in their power to remedy the ills of the world.

Romilly's aversion to the practice of law was twofold: First, he felt that it compelled him to focus his attention on too small an area. His vision of life was too broad and ample for him to be content to restrict himself to one field of human endeavour. Life and not law was his supreme interest, and he felt that so much of life fell outside the province of law.

The second count in his quarrel with the law was that he felt it was not all it should be. This count applied particularly to the criminal law. Here Romilly thought he saw where the shoe pinched. The sole end and purpose of the criminal code of his day was to punish the criminal for his crime. Romilly thought the law should shift its incidence from the crime to the criminal, regard not what a prisoner has done but what he is and why he is what he is.

In the Draconian criminal code of the day more than two hundred offences carried a death penalty. This state of affairs led to shocking abuses in the administration of criminal justice, for judges and juries were more humane than the law. They refused to give effect to the letter of savage laws, often adopting the most ridiculous expedients to save some poor wretch from

the gallows. Professor Kenny in his *Outline of Criminal Law* cites a case where a jury found on their oaths that a £10 Bank of England note was worth only 39s. Stealing in a dwelling-house to the value of forty-shillings was a capital offence, hence the necessity for this "pious perjury" on the part of the jury.

Thus it was that the harshness of the law defeated its own end, and criminals followed their illicit calling reasonably secure in the knowledge that they would not be brought to book. Romilly saw that certainty of punishment was a greater deterrent to the criminal than severity of punishment. And history bears him out. Of this fact what better proof can be given than a comparison of the crime records of London, where few crimes go unpunished, and Chicago, where many criminals never find their way into court.

Romilly first set forth his ideas on the administration of criminal justice in 1786, in a pamphlet entitled "Observations on a late publication intituled Thoughts on Executive Justice", a counterblast to a tract by one Martin Madan, in which more stringent penalties were advocated. By and large, the profession did not view his arguments against the savagery of severe sentences with any favour. Romilly's clerk, of a practical turn of mind, which suggests the nurse who gave counsel to Juliet, advised him that he should not be pointing out abuses in the law but profiting by them. But Romilly could not have been other than he was. His interest in penal reform had its rise in his imagination. He did not have to be the toad beneath the harrow to know where each tooth-point went. His imagination galloped away with him and he could not help putting himself in the other fellow's place. He did not raise his eyes in scorn at one whom the world had subdued but said, more in humility than in pity, what that true Christian, John Bunyan, said when he saw a drunken man, "There but for the grace of God go I." Romilly had the sympathy that makes all men kin, the sympathy that prompted the pen of Edna St. Vincent Millay when she wrote :

A man was starving in Capri,  
He moved his eyes and looked at me;  
I felt his gaze, I heard his moan,  
And knew his hunger as my own. . . . .

What were the springs that nourished Romilly's interest in law reform before he formulated definite views of his own on the subject? What ideas did he borrow from others to weave into the fabric of his own philosophy? From Rousseau he



drew the idea that law and justice should be one, that the rules of conduct to which a society compels obedience should be in harmony with the eternal dictates of Nature. To Beccarrio, the father of scientific criminology, he was indebted for the conviction, which grew on him as he gave it more thought, that regeneration and not retribution should be the end and aim of the criminal code.

Beccarrio seems to have been the first legal reformer to recognize that society gets the criminals it deserves. He was convinced that crime proceeds more often from an empty stomach than from a malignant heart. The thought was not new. It dated back to Adam, who wrote in his diary (as translated by Mark Twain) in excusing himself for eating the apples: "I was obliged to eat them, I was so hungry. It was against my principles, but I find that principles have no real force except when one is well fed."

Romilly first read Beccarrio a few months before his call to the Bar when he was recovering from a serious illness. The Italian's views not only convinced his reason but made a strong emotional appeal to him. Henceforth they gave direction to his own thinking.

To Jeremy Bentham, whom he first met in 1784, Romilly owed a considerable obligation. Romilly was the echo of no man, he paid interest on every thought he borrowed; but contact with Bentham stimulated him and had the effect of crystalizing opinions which were somewhat hazy in his own mind. The two offer a strange contrast. Romilly was cautious, diplomatic but steadfast to principle, believing half a loaf better than no bread at all. Bentham was tempestuous, an extremist, a believer in the doctrine of all or nothing. When Romilly was contesting Westminster, the fiery Bentham, forgetting the common ground on which they stood, circulated a handbill opposing him because he was a lawyer, a whig, and a moderate reformer. In theory Bentham put the emphasis on intellect and Romilly on the emotions; in practice things were reversed.

Lord Lansdowne must be mentioned as one to whom Romilly owed a debt. Lansdowne did not stimulate him to think as much as he encouraged him to act. He became Romilly's patron, and as Mr. Oakes says: "But for this big-hearted, large-minded Irishman, Samuel might well have blossomed into a sound Chancery K.C., but perhaps known only to the legal world in England." Lansdowne was not one of those patrons against whom Dr. Johnson protests. He was not one

who looked with unconcern on a man struggling for life in the water only to encumber him with help when he reached the shore. He gave Romilly help when he needed it and encouragement at all times. . . .

Romilly's fortunes took an upward turn about the year 1790. By that year he had overcome his diffidence in court and developed into a forceful and logical speaker. By 1797 he was recognized as one of the leaders of the Chancery Bar. Two years later the promotion of Sir John Scott to the Chief Justiceship of the Common Pleas proved a great boon to his practice. He took silk in 1800 and thereafter there was no one to dispute his supremacy at the Equity Bar.

A logical rather an eloquent speaker, Romilly wasted no time on the rind of a dispute but went straight to the heart of the matter. His industry never flagged. Always prepared for anything that might arise, he could tack with the shifting winds of any emergency. Compared to other chancery barristers he was like Drake's famous flagship, the little *Revenge*, compared to a clumsy Spanish galleon. Upon occasion he could be sarcastic, as when making a junior toe the mark or when pointing out a fallacy in an opponent's argument. Clumsy tactics or an unsound argument he did not bear gladly. Brougham said of him that he was the best advocate and the most profound lawyer of his day and Brougham was not one to give praise where praise was not due.

In October, 1796, a new influence came into Romilly's life. He fell in love with Anne Garbett, a daughter of Francis Garbett, of Knill Court, whom he met at a house party given by Lord Lansdowne at his country house, Bowood. Love came to him, a shy, retiring bachelor of forty who lived pretty much within himself, as a revelation. It opened for him a world not dreamt of in his philosophy. In his *Memoirs*, speaking of his meeting with Anne, he says: "I saw in her the most beautiful and accomplished creature that ever blest the sight and understanding of man. A most intelligent mind, an uncommonly correct judgment, a lively imagination, a cheerful disposition, a noble and generous way of thinking, an elevation and heroism of character, and warmth and tenderness of affection such as is rarely found even in her sex were among her extraordinary endowments. I was captivated alike by the beauties of her person and the charm of her mind."

His words must, of course, be discounted somewhat. Love prejudiced him in Anne Garbett's favour but the fact remains

that she was a remarkable woman. Mr. Oakes calls her the ideal barrister's wife and perhaps no higher praise can be given her—for to be a barrister's wife, to share the tired margin of a busy life, requires those womanly traits of tact, patience, and devotion, in superabundance.

Romilly and Anne were married on 3rd January, 1798. Theirs was an ideal mating. Their personalities fitted into each other like the two halves of a torn parchment. As a river that daily wears its channel deeper, so did their love for each other increase with the years. In August, 1813, Romilly confided to his Journal, "For the last fifteen years my happiness has been the constant study of the most excellent of wives."

Doubt and distrust are the reformer's usual portion. But doubt and distrust passed Romilly by, for his wife's love was proof against them. With that true poet, Stephen Crane, Romilly could say :

There was a man with tongue of wood  
Who essayed to sing,  
And in truth it was lamentable.  
But there was one who heard  
The clip-clapper of this tongue of wood  
And knew what the man  
Wished to sing,  
And with that the singer was content.

Romilly's friends often pressed him to throw his cap into the political arena but he gave no heed to their suggestions until his position at the Bar was secure. As early as the year 1792, Lord Lansdowne had offered him the pocket borough of Calne. But it was not until 1806 that he embarked on a political career. In that year he was appointed Solicitor-General in the short lived "Ministry of All the Talents". The position had sought him, not he the position. Lord Erskine was raised to the Woolsack by the same administration. It was a position that Romilly was better able to fill, for Erskine had not even a nodding acquaintance with equity. The heaven-born advocate must have sensed something of this for on his appointment he went to Romilly and said, "You must make me a Chancellor now, that I may afterwards make you one."

On being taken into the Ministry, Romilly was knighted, an honor he accepted with great reluctance. He realized that the rank was but the guinea's stamp; that he was neither more nor less a man because he could write his name Sir Samuel Romilly instead of plain Mr. Romilly. A seat in Parliament

had to be found for him but this was not a difficult matter. He was returned for Queenborough on the 21st March, 1806. At last he had come into his own. He now had an opportunity to plead the unpopular cause of law reform. Taking stock of himself he realized that if any measure of success was to crown his labours he could not scatter his fire but must concentrate on a single objective. While promising himself not to turn a deaf ear to any measure that made for enlightenment, he resolved to devote his time to an attempt to ameliorate the penal laws. Romilly knew what he was up against. He knew that the forces of prejudice would present a solid phalanx in opposition to him. Speaking in Parliament on the defeat of a bill which he introduced, he once said, "I am not so unacquainted with the nature of prejudice as not to have observed that it strikes deep root, that it flourishes in all soils, and spreads its branches in every direction. I have observed also, that, flourish as it may, it must, by laws sacred and immutable, wither and decay after the powerful and repeated touch of truth."

In their dim beginnings criminal courts were instituted in the attempt to supply a substitute for private vengeance and self-help by punishing a wrongdoer in the name of the state. A person that had been trespassed against, unless he was the exception, demanded his full pound of flesh. An eye for an eye was the principle to which he subscribed when avenging himself of a wrong. When organized society stepped into his shoes and took over the obligation of punishing the criminal who had offended him, it was not inclined to temper justice with humanity. Thus retribution was the keynote of primitive penal laws. That it is not the keynote of present day penal laws is very largely the result of a few humanists who, like Romilly, thought that the criminal law should have a worthier object than the satisfying of an injured party's thirst for vengeance.

To compare the past with the present is the best way of finding out just how far we have travelled on the path to penal reform. Consider some of the two hundred and more offences which merited death in the eyes of the criminal code of Romilly's day—offences which today would warrant no more than a judicial reprimand.

Breaking machinery in mills, cutting wood on rented premises, stealing from bleaching grounds, picking pockets to the value of ten shillings, poaching rabbits from rabbit-warrens—these, amongst others, were capital offences when Sir Samuel Romilly first took his seat in Parliament.

What pragmatic value had this savage criminal code? Did it suppress crime and make man law abiding? Not a bit of it. Man cannot be kept good by fear of death alone. Mr. E. Roy Calvert, secretary of the Howard Society, points out that when picking pockets was a capital offence, pickpockets plied their unlawful trade even at public executions. Here were criminals laughing in the very face of Jack Ketch. So much for the fear of the hangman as a deterring influence to crime. . . .

As a law officer Romilly saw the working of the criminal law from the inside, and his worst suspicions were confirmed, especially by the case of one Thomas Wood. Nine years after a murder had been committed during a mutiny on the high seas, the captain of the vessel upon which it had occurred chanced to see a man named James Hayes and took his oath that he was really Thomas Wood, one of his mutinous crew. Hayes was tried on the charge of being concerned in a murder. On the advice of friends, he pleaded guilty and threw himself upon the mercy of the court. Mercy he asked but mercy he did not get. He was sentenced to be hanged. His brother then interested himself in the case and dug up evidence, which there was no disputing, that Hayes was innocent. But in the face of this evidence, Hayes was hanged. This was but one of the cases that came to Romilly's attention in which Justice did not remove the bandage from her eyes.

In March, 1807, the Whig administration was dismissed and Romilly retired from office. He was, however, returned to Parliament as member for Horsham. He now seriously focused his attention on the amelioration of the criminal code. In 1808, he introduced a bill to repeal the statute which made the offence of privately stealing from the person punishable by death. This bill with some of its teeth drawn finally became law. The forces of reaction had not been on the alert. Two years later Romilly introduced three bills further to humanize the criminal law by abrogating the death penalty in the case of certain trivial offences. But this time a united front was presented in opposition to his measures. Lord Ellenborough and Lord Eldon were the acknowledged leaders of the opposition in the House of Lords. They balked Romilly at every turn. If he succeeded in squeezing a bill through the Commons, they were sure to upset it in the Upper Chamber.

There follows an extraordinary effusion quoted from a speech made by Lord Ellenborough in the House of Lords in opposition to a bill introduced by Romilly. It shows the type

of mind which did battle with Sir Samuel. "My Lords," said Ellenborough, "if we suffer this Bill to pass, we shall not know where to stand—we shall not know whether we are on our head or on our feet. If you repeal the Act which inflicts the penalty of death for stealing to the value of five shillings in a shop, you will be called upon next year to repeal a law which prescribes the penalty of death for stealing five shillings in a dwelling-house, there being no persons therein—a law, your Lordships, must know, on the severity of which, and the application of it, stands the security of every poor cottager who goes out to his daily labour. . . ."

From the vantage point of these more enlightened times, all that can be said for Ellenborough is that he was honest in his belief that the pillars of society would crumble if the death penalty for the theft of five shillings was abolished. Ignorance, and an unimaginative mind, led him to plead in defence of barbarous laws.

In March, 1813, Romilly introduced a bill to substitute hanging for the crime of treason instead of an exquisite form of torture which consisted in tearing out the heart and bowels from the body of a human being, while he was yet alive, and burning them in his sight. In his speech in support of this bill, he pointed out the axiomatic fact that brutal laws make a brutal people; that criminals treat others as they are treated, often bettering their instruction. "I call upon you to remember," he said, "that cruel punishments have an inevitable tendency to produce cruelty in the people. It is not by exciting revenge, that we can hope to generate virtuous conduct in those who are confined to our care. . . . In time of tranquillity you will not diminish offences by rendering guilt callous by teaching the subjects to look with indifference upon human suffering; and, in times of turbulence fury will retaliate the cruelties which it has been accustomed to behold. . . ."

Despite its apparent reasonableness, Romilly's bill was defeated. Who will not say, with Tennyson, that mankind has been moving upward? . . . .

For twelve long years Romilly labored manfully to ameliorate the Draconian Code of his time. In results that the finger can be put upon, he accomplished very little. But as Henry Roscoe says: "Throughout all our institutions, a more liberal spirit has become visible, the growth and progress of which are to be attributed to the efforts of the men, who, like Sir Samuel Romilly, have never ceased under all circumstances, to advocate

the cause of freedom and humanity." Mr. Oakes puts it in a sentence when he says that Romilly lived in seedtime. The years have brought forth the harvest. The heterodoxy of Romilly's day has become the orthodoxy of today.

In June, 1818, a substantial group of electors of the flourishing City of Westminster asked Romilly if he would stand for Parliament as their candidate. There was a new spirit abroad. The old order was giving way. Men like Romilly, men of integrity and forward-thinking minds, were at a premium. Several other important commercial centers were bidding for Romilly's services. But he consented to stand for Westminster on condition that he did not have to auction himself off on the hustings. His supporters readily agreed to this condition. They promised him that they would see he was elected and they were as good as their word. Romilly was returned at the head of the polls. The fact that he had not spent a dollar of his own money or made a single political speech makes this triumph the more remarkable. It speaks volumes for the intelligence and good sense of the electors of Westminster. But when Parliament assembled, Romilly was not to be their voice in the House of Commons.

The last act of a man's life is always tragedy for death takes the stage just before the final curtain. But the tragedy is not often so stark, so overwhelming, as it was in Romilly's case. Lady Romilly's health began to fail some time in 1817, and progressed steadily from bad to worse. In August, 1818, in the hope that a change of scene would restore her to health, Romilly took his wife to Cowes, in the Isle of Wight. But it was to no avail—there she died on 29th October, aged 44 years.

Constant brooding over his wife's condition had undermined Romilly's own health. When she died friends took him back to London and tried to revive his waning interest in life. But the edge had been taken off living for him. Life with his wife had been a joy too deep for words, but without her it became a burden he could not bear. His grief mastered him and in a moment of abject despair, he took his own life. Thus died Sir Samuel Romilly, "the defender of the cause of Humanity,—of Liberty,—and of Justice".

Through the mists of history, he is seen as a dauntless torch-bearer of the law. He was the first to light the torch of penal reform in the English House of Commons. He came within the compass of Death's encircling scythe, but his cause

did not die with him. To quote the magnificent words of Robinson Jeffers :

The torch-bearer's race: it is run in a dusk: when the  
Emptied racer drops unseen at the end of his course  
A fresh hand snatches the hilt of the light, the torch flies onward  
Though the man die.

After Romilly's death other hands, hands eager and strong, seized the torch he had lighted and carried it onward. Other hands are still carrying it onward.

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