LITERATURE.

DESPISE NOT THE VICIOUS.

The heart hath tendrils, like the vine,
That round another's bosom twine,
Out springing from the living tree
Of deeply-seated sympathy—
Whose flowers are hope, whose fruits are bliss—
Beneficence its harvest is.

There are some bosoms dark and drear,
That an unwatered desert are;
Yet *there* a curious eye may trace
Some smiling spot, some verdant place,
Where little flowers, the weeds between,
Spend their soft fragrance all unseen.

Despise them not; for Wisdom's toil
Hath ne'er disturb'd that stubborn soil;
But Care and Culture might have brought
The ore of Truth from mines of Thought,
And Fancy's fairest flowers have bloom'd
Where Truth and Fancy lie entomb'd.

Insult him not—his blackest crime
May, in his Maker's eye sublime,
In spite of all thy pride, be less
Than e'en thy daily waywardness—
Than many a sin and many a stain
Forgotten and impressed again

There is in every human heart
Some not completely barren part.
Where seeds of truth and love might grow,
And flowers of generous virtue blow;
To plant, to watch, to water there,
This be our duty—this our care.

LORD ELDON AND THE CHANCES OF THE BAR.

(From his Public and Private Life.)

A FEW days after he received his silk gown he was elected for Weobly, a borough in the patronage of Lord Weymouth, to whom he was recommended by Lord Thurlow; it being expressly stipulated that he was not to be bound by the opinions of the patron. Erskine was elected for Portsmouth, on the Government interest. They took their seats at the same time, made their maiden speeches the same night, and were simultaneously voted fresh illustrations of the saying, that lawyers do not succeed in Parliament. But it strikes us that this saying is in one sense a truism, and in every other false. It is true that all eminent lawyers do not become equally eminent in Parliament; but may not the remark be extended to other orders and classes? Do historians, essayists, poets, wits, metaphysicians, invariably sustain their reputation? Witness Gibbon, Addison, Byron, George Selwyn, David Hartley. Does the country gentleman retain his relative importance? Is the merchant as influential as upon 'Change? The scene is shifted; the required talent is different; the public is a wider public; the competition is indefinitely increased. Because a lawyer excels Peckham and Pigott in the Court of King's Bench, he is expected to excel or equal Pitt, Fox, Burke, and Sheridan in the House of Commons! Nay, he is to prove a match for the best of them, with one hand tied behind him. After a morning spent in an exhausting contest before judges or juries, and an afternoon in consultations, with hardly a moment to prepare himself, he is to encounter first-rate debaters fresh from their clubs, who have spent their whole lives in the political atmosphere, and given their full attention to the subject of the night. Suppose, at the end of one of the grand party conflicts, prolonged till daylight, Erskine had said to Fox, "Now, come across the Hall and defend Hardy. You know the case as well as I do, and there are no technicalities involved in it." Would Fox have sustained the reputation acquired by such speeches as that on the Westminster scrutiny? Would he have delivered any thing at all approximating in effect to Erskine's famous speech for the defence, which stands like a landmark in history? The truth is, unrivalled pre-eminence (like Erskine's) in one walk, implies a peculiar kind of genius or combination of qualities, and renders equal pre-eminence in another almost impossible. There is no instance on record (unless Michael Angelo be one) of the same man's standing *on the very apex* of two arts, sciences, professions, or pursuits, even those more congenial than politics or law; yet we do not complain that the greatest Chemist is not the greatest Botanist, nor gravely lay down as an axiom that Painters do not succeed in Poetry. Even if we adopt Dr. Johnson's notion, that genius is nothing more than great general powers of mind capable of being turned any way, and admit that "a man who has vigour may walk to the east just as well as to the west;" still, a man cannot walk as far both ways, or cover as much ground, as two men of much inferior vigour, each taking his line and keeping to it.

The real wonder, therefore, is, or ought to be, how so many lawyers have succeeded; for the list is a highly respectable one. Somers was the constitutional and parliamentary organ of his party. Murray was regularly pitted against the Great Commoner. "They alone" (says Lord Chesterfield) "can inflame or quiet the House; they alone are attended to in that numerous and noisy assembly, that you may hear a pin fall while either of them is speaking." Lord North is described by Gibbon as placing his chief dependence on Thurlow and Wedderburn. Dunning was an excellent debater. Fox himself grew anxious when he had to answer Sir William Grant; and the present Lord Lansdowne (then Lord Henry Petty) was the only speaker who ever completely did away the effect of one of his best speeches (on the Orders in Council) by a reply. It was hardly possible to fill a prouder position in Parliament than Romilly. Dundas had been Lord Advocate, and Perceval Solicitor-General. Mr. O'Connell was at one time the undisputed leader of the Irish bar. Lord Plunkett was quite perfect as a debater. Sir William Follett, Sir Thomas Wilde, and Mr. Pemberton Leigh, have surely succeeded in the House of Commons; while Lord Brougham and Lord Lyndhurst are not generally thought to have failed in either House.

The list might be indefinitely extended, if we included those who (like Lord Eldon) were always equal to their work, though they acquired no distinctive reputation as speakers; or those who have risen to eminence after going through the training of the bar, like Pitt and Tierney, who both went the Western Circuit. But we have not shrunk from the common mode of arguing the question, palpably unfair as it is; according to which, no one is to count who has not been occupied during the best portion of his life with law, and expended his best energies on it.

It was said of Sheridan, when he delayed writing another comedy, that he was afraid of the author of "The School for Scandal." Erskine, when he rose to speak, might reasonably have stood in awe of the advocate who defended Lord George Gordon. It was his own reputation that bore him down; and one of the first of living authorities on such a subject, Lord Brougham, thinks that his parliamentary talents were underrated, and that, had he appeared at any other period, and given more attention to the practice, "there is little chance that he would have been eclipsed even as a debater." This could not be said of Mr. Scott. His high reputation for legal knowledge ensured attention when he spoke, but nothing could be worse than the taste and style of his early speeches.

He broke ground in opposition to the famous East India Bill, and began with his favorite topic, the honesty of his own intentions, and the purity of his own conscience:—

He spoke in respectful terms of Lord North, and more highly still of Mr. Fox; but even to Mr. Fox it was not fitting that so vast an influence should be intrusted. As Brutus said of Cæsar—

——— he would be crown'd!
How that might change his nature—there's the question.

It was an aggravation of the affliction he felt, that the cause of it should originate with one to whom the nation had so long looked up; a wound from him was doubly painful. Like Joab, he gave the shake of friendship, but the other hand held a dagger, with which he dispatched the constitution. Here Mr. Scott, after an apology for alluding to sacred writ, read from the book of Revelations some verses which he regarded as typical of the intended innovations in the affairs of the English East India Company:—"And I stood upon the sand of the sea, and saw a beast rise up out of the sea, having seven heads and ten horns, and upon his horns ten crowns. And they worshipped the dragon which gave power unto the beast; and they worshipped the beast, saying, Who is like unto the beast? who is able to make war with him? And there was given unto him a mouth speaking great things; and power was given unto him to continue forty and two months." 'Here,' said Mr. Scott, 'I believe there is a mistake of six months—the proposed duration of the bill being four years, or forty-eight months.'—"And he caused all, both small and great, rich and poor, free and bond, to receive a mark in their right hand, or in their foreheads."—Here places, pensions, and peerages are clearly marked out.—"And he cried mightily with a strong voice, saying, Babylon the Great"—plainly the East India Company—"is fallen, is fallen, and is become the habitation of devils, and the hold of every foul spirit, and the cage of every unclean and hateful bird."

He read a passage from Thucydides to prove that men are more irritated by injustice than by violence, and described the country crying out for a respite, like Desdemona—

Kill me to-morrow—let me live to night—
But half-an-hour!

This strange jumble was well quizzed by Sheridan, and Mr Scott appears to have found out that rhetorical embellishment was not his line; for his subsequent speeches are less ornate. They were not always plain, however, in the full sense of the word, and he was never cured of the habit of talking of his conscience.

In the squibs of the period, their obscurity forms the point of the jokes levelled at him. Thus, among the pretended translations of Lord Belgrave's famous Greek quotation, the following couplet was attributed to him:—

With metaphysic art his speech he plann'd,
And said—what nobody could understand.

He was certainly too much given to refining and distinguishing; but a lawyer speaking principally on legal subjects, will frequently, without any fault of his, be unintelligible to a shifting and impatient audience like the House of Commons. His opinion, however, was always duly appreciated, and he took care not to impair its value by lending it for party purposes. In the affair of the Westminster scrutiny, he considered the high bailiff to be acting contrary to law in delaying the return, and said so in the House. Fox showed his sense of this highly commendable act of candour, by the tone of respectful courtesy in which he invariably alluded to him.

In 1788, Lord Mansfield resigned the Chief Justiceship of the King's Bench; Lord Kenyon, then Master of the Rolls, succeeded him; Sir R. P. Arden, (Lord Alvanley) then Attorney-General, succeeded Lord Kenyon; the Solicitor-General (Macdonald) became Attorney-General; and the Solicitor-Generalship was conferred upon Mr. (who thereupon became Sir John) Scott. The story goes that he did not wish to be knighted; but the King said, "Pooh, pooh! you must be served like the rest," and knighted him. Mr. Twiss says that the ceremony had not then become a matter of course, and that he was really taken by surprise.

The value of such a coadjutor was soon experienced by Mr. Pitt. In the Regency debates of 1789 the brunt of the discussion was sustained by the Solicitor-General. Shortly after the King's recovery, he was requested to attend at Windsor, and in the personal interview that followed, the King told him, "he had no other business with him than to thank him for the affectionate fidelity with which he adhered to him when so many had deserted him in his malady." The report that Lord Thurlow was of the number is discountenanced in the "Anecdote Book." But it is stated that several of the King's friends thought it very desirable, for the King's sake, that Lord Thurlow should continue Chancellor, and possibly that noble person thought it no less desirable for his own. A trifling incident, remarked at the time, was calculated to excite suspicion. When one of the Cabinet Councils, held at the Queen's house, broke up, and the ministers rose to depart, Lord Thurlow's hat was missing. After a fruitless search in the ordinary place, it was brought by a page, who said he had found it in the Prince's apartment, where the Chancellor, it seems, had left it, though he had no ostensible business there, and had said nothing of any interview with the Prince. The report also derived plausibility from the known ill-will between Lord Thurlow and Mr. Pitt, which three years afterwards led to an open rupture, and narrowly missed affecting Lord Eldon's fortunes very seriously.

On this occasion Mr. Pitt sent for him, and said, "Sir John Scott, I have a circumstance to mention to you, which, on account of your personal and political connexion with Lord Thurlow, I wish you should *first* hear from myself. Lord Thurlow and I have quarrelled, and I have signified to him his Majesty's command that he should resign the great seal." The answer, after an expression of regret, was, "My resolution is formed. I owe too great obligations to Lord Thurlow to reconcile it to myself to act in political hostility to him, and I have too long and too conscientiously acted in political connexion with you, to join any party against you. Nothing is left for me but to resign my office as Solicitor-General, and to make my bow to the House of Commons." All Mr. Pitt could do was to persuade him to delay acting on this resolution till he had consulted Lord Thurlow. The Chancellor, after hearing what had passed, said, "Scott, if there be anything which could make me regret what has taken place, (and I do not repent it) it would be that you should do so foolish a thing." He added, "I did not think the King would have parted with me so easily. *As to that other man*, he has done to me just what I would have done to him, if I could. It is very possible that Mr. Pitt, from party motives, at this moment may overlook your pretensions; but sooner or later you *must* hold the Great Seal. I know now no man but yourself qualified for its duties."

There was no reason, beyond personal friendship, why the Solicitor-General should resign with the Chancellor, unless the Chancellor had been going out on some question of principle, on which the Solicitor-General agreed with him. Lord Thurlow was not the leader of a political party, and was merely individually offended with the Premier. Sir John Scott kept his place, and Lord Loughborough received the Great Seal, to Thurlow's increased umbrage, who disliked and made light of him. Some good stories, illustrating this, are told in the "Anecdote Book."

Once when Lord Loughborough was making a considerable impression in the House of Lords, on a subject which Lord Thurlow had not studied in detail, the latter was heard to mutter, "If I was not as lazy as a toad at the bottom of a well, I could kick that fellow Loughborough heels over head any day in the week."

Lord Thurlow told George IV., who repeated it to Lord Eldon, that "the fellow (Lord L.) had the gift of the gab in a marvellous degree, but that he was no lawyer"—adding, "in the House of Lords I get Kenyon, or somebody, to start some law doctrine, in such a manner that the fellow must get up to answer it, and then I leave the woolsack, and give him such a thump in the bread basket, that he cannot recover himself." Dr. Johnson, in comparing the two, says, "I never heard any thing from him (Loughborough) that was at all striking; and depend upon it, sir, it is when you come close to a man in conversation, that you discover what his real abilities are. To make a speech in a public assembly, is a knack. Now, I honour Thurlow, sir; Thurlow is a fine fellow; *he fairly puts his mind to yours.*"

Early in 1793, Sir Archibald Macdonald became Chief Baron of the Exchequer, and Sir John Scott succeeded him as Attorney-General. From this period, therefore, the responsibility of the Crown prosecutions devolved upon him, and it fell to his lot to institute some of the most memorable; among others, those against Hardy, Horne Tooke, and Thelwall. The result is well known. They all failed; and the Attorney-General was much censured at the time, even by the friends of the Government, for preferring a charge of high treason, instead of indicting the accused for sedition. The defence is twofold: first that such of the judges as were privy councillors, and were present during the preliminary enquiries, (including the Chief Justice who tried the prisoners,) stated that, in their judgment, the parties were guilty of high treason; secondly, that it was expedient to make the country aware of the extent of the danger. With regard to the first ground, we earnestly wish, for the honor of British justice, it had been suppressed, though Chief Justice Eyre fortunately did not consider himself bound by his extrajudicial opinion. With regard to the second, it strikes us that nearly the same disclosures might have been made. It is admitted on all hands, that the Attorney-General conducted the proceedings with temperance and forbearance. Horne Tooke walked up to him in Westminster Hall a few weeks afterwards, and said, "Let me avail myself of this opportunity to express my sense of your humane and considerate conduct."

At the end of his speech against Horne Tooke, the Attorney-General fell into his habitual error of justifying his character, "It is to the little inheritance I have to leave to my children, and, by God's help, I will leave it unimpaired." Here he shed tears, and to the astonishment of the court, the Solicitor General (Mitford) began to weep in concert. "Just look at Mitford," said a bystander to Horne Tooke, "what on earth is he crying for?" "He is crying to think of the *little* inheritance Scott's children are likely to get."

The populace were highly excited, and the crown counsel had regularly to run the gauntlet between their own houses and the Old Bailey. One evening as the Attorney General was about to leave the court, Garrow said—"Mr. Attorney, do not pass that tall man at the end of the table." "Why not pass him?" asked Law. "He has been here the whole trial," replied Garrow, "with his eyes constantly fixed on the Attorney-General." "I will pass him," said Law. "And so will I," said Scott; "happen what may, the king's Attorney-General must not show a white feather." The conclusion must be told in his own words:

I went and left them, but I will not say that I did not give a little look over my shoulder at the man with the slouched hat, as I passed him; however he did me no harm, and I proceeded for some time unmolested. The mob kept thickening around me till I came to Fleet-street, one of the worst parts of London that I had to pass through, and the cries began to be rather threatening, "Down with him—now is the time, lads—do for him"—and various others, horrible enough. So I stood up, and spake as loud I could—"You may do for me if you like, but remember there will be another Attorney-General before eight o'clock to-morrow morning; the King will not allow the trials to be stopped!" Upon this one man shouted out—"Say you so! you are right to tell us. Let's give him three cheers, lads!" And they actually cheered me, and I got safe to my own door. When I was waiting to be let in, I felt a little queerish at seeing close to me the identical man with the slouched hat; and I believe I gave him one or two rather suspicious looks, for he came forward and said—"Sir John, you need not be afraid of me: every night since these trials commenced I have seen you safe home before I went to my own home, and I will continue to do so until they are over; good evening, sir!" I had never seen the man before. I afterwards found out who he was, (I had some trouble in doing so, for he did not make himself known,) and I took care he should feel my

gratitude.*—[It is stated in the *Law Magazine,* that Lord Eldon had once done an act of great kindness to the man's father.]

This was the period of Erskine's greatest triumph, and he availed himself of his popularity to come to the rescue of his antagonist. "I will not go on without the Attorney-General," was his frequent call to the mob, as they crowded round his carriage to attend him home. Some years afterwards he was relating, in Lord Eldon's presence, how his horses were taken out by the mob at the conclusion of Hardy's trial. "Yes," added Lord Eldon, "and I hear you never saw more of them," The laugh was against Erskine, though the fact may be regarded as apochryphal.

In 1799, the Chief-Justiceship of the Common Pleas became vacant by the death of Sir J. Eyre, and Sir John Scott immediately laid claim to it. Both the Chancellor (Lord Loughborough) and Mr. Pitt wished to give it to Sir R. P. Arden, (Lord Alvanley,) then Master of the Rolls, and Mr. Pitt was also unwilling to lose a valuable supporter in Parliament. "The difficulties were at length overcome—Mr. Pitt agreeing, if, with the Chief Justiceship, I would, as Lord Camden did, go into the House of Lords as a peer; and the King consented, provided that I would promise not to refuse the Great Seal when he might call upon me to accept it." No conditions could be more flattering. He was made a Sergeant (a necessary preliminary to a seat on the Bench of a Court of Common Law) on the 16th July, sworn of the Privy Council on the 17th, created Baron Eldon of Eldon on the 18th, and appointed Chief Justice of the Common Pleas on the 19th. It was then customary for the Judges to wear powdered bush-wigs as a part of their ordinary costume. This fretted Lady Eldon, who was justly proud of her husband's good looks, and, by her persuasion, he applied to George III. for a dispensation, on the plea of headache, "No, no!' said the monarch, "I will have no innovations in my time." Lord Eldon then urged that wigs were in point of fact the innovation not having been worn by the Judges of the olden time. "True," rejoined the King, "and you may do as they did, if you like—though they certainly had no wigs, yet they wore their beards."†

Sir John Scott's annual emoluments at the bar, during the six years he was Attorney-General, varied from £10,000 to £12,000. In the most productive year, (1796,) they amounted to £12,140. The circuit gains are small, and he was never esteemed a first-rate *nisi prius* advocate. The year before he became Solicitor-General, his fees exceeded £8000; so that he must have made a considerable sacrifice of private practice, with the view of giving his full attention to the business of the crown. Much larger professional incomes have been made of late years. The late Lord Abinger has been heard to say, that he received in one year, after he became Attorney-General, more than £18,000; and the present Attorney-General is supposed to have exceeded that sum before he attained his present rank. The office of Attorney-General is now understood to be worth £12,000 a-year, independent of private practice. The fees payable on patents will go far towards accounting for the recent increase. The change during the eighteenth century was much less than might have been anticipated. Roger North tells us, that in Charles II.'s reign "the Attorney's place was (with his practice) near £7000 per annum, and the cushion of the Common pleas not above £4000." Mr. Barrington says, (1705,) "there is a common tradition in Westminter Hall, that Sir Edward Coke's gains at the latter end of the seventeenth century, equalled those of a modern Attorney-General;" and it appears from Bacon's works, that he made £6000 a-year as Attorney-General. Brownlow, a Prothonotary of the Common Pleas during the reign of Elizabeth, received £6000 per annum. "I received this account from one who had examined Brownlow's books, and who also informed me that Brownlow used to close the profits of the year with *laus Deo*, and when they happened to be extraordinary, *maxima laus Deo*."‡

On the other hand, Sir Thomas More told his son-in-law and biographer, (Roper,) that he made about £400 a-year by his profession, "with a good conscience;" and in Seward's *Anecdotes* we find, "My Lord (Sir M. Hale) said, that £1000 a-year was a great deal for any common lawyer to get, and Mr. Barrington said, that Mr. Winnington made great advantage by his city practice, but did not believe he made so much of it."

Lord Eldon continued Chief Justice of the Common Pleas from July 1799 to April 1801. This was the brightest period of his judicial career. When he sat with his brethren in Banco, he was obliged to keep pace with them; and when he sat at *nisi prius* by himself, he was obliged to decide upon the instant. His tendency to hesitate, therefore, did not become manifest; while his learning, penetration, temper, and sagacity, might eventually have made him, what Lord Kenyon, on hearing of the appointment, said he would be as consummate a Judge as ever sat in judgment. It was also the happiest period. "How I did love that court!" is his parenthetical exclamation in the "Anecdote Book;" and once, during a walk with Mr. Farrer, after comparing the harrassing duties of the Chancellorship with the quiet of the Common Pleas, he suddenly turned round, and emphatically adjured his companion never to aspire to the Great Seal—a curious piece of advice to a young barrister.

Early in 1801, when Mr. Pitt's resignation was anticipated, it was understood that Lord Eldon was to succeed Lord Loughborough as Chancellor; but Lord Eldon maintained, a cautious reserve on the subject, which he justifies by an anecdote. "Lord Walsingham, the son of Lord Chief Justice, de Grey, told me that his father, the Chief Justice, gave a dinner to his family and friends, on account of his going to have the Great Seal as Chancellor next morning, but that in the interim, between the dinner and the next morning, Mr. Justice Bathurst, it was determined, should be Chancellor, and received the seal."

The Great Seal was delivered to him on the 14th April 1801. He used to say he was the King's Chancellor, not the Minister's. "I do not know what made George the Third so fond of me, he *was* fond of me Did I ever tell you the manner in which he gave me the seals? When I went to him he had his coat buttoned thus, (one or two buttons fastened at the lower part,) and putting his right hand within, he drew them from out the left side, saying, 'I give them to you from my heart.'"

It is remarkable that George the Fourth, who, as he confessed, began by hating Lord Eldon, ended by becoming as much attached to him as George the Third. 'On Monday,' says Lord Eldon, in a letter to his grandson describing his final resignation, your grandfather attended with the rest of the ministers to give up the seals of office, and was, of course, called in first. The King was so much affected that very little passed; but he threw his arms round your grandfather's neck and shed tears."

That resignation took place in April 30, 1827, on the formation of Mr. Canning's government. After allowing for the secession during the Whig govovernment in 1806-7, it appears that Lord Eldon held the Great Seal twenty-four years, ten months, and twenty-three days—a longer period than any other Chancellor ever held it. It is strange, therefore, that his retirement elicited no address or testimonial from the bar, to whom he was uniformly courteous. An address was presented by the Masters in Chancery; but its value is somewhat diminished by a sentence in the answer:—"Lord Eldon reflects with great pleasure upon the fact, that he has given to the public the benefit of the services of *all* these gentlemen."

It is undeniable that Lord Eldon possessed judicial qualities of a very high order. They are thus mentioned by Mr. Abercromby, (now Lord Dunfermline,) so long ago as June 1828: "He expressed his belief that no man could be more conscientiously inclined to give a correct judgment than Lord Eldon; and declared himself willing to admit that the noble and learned lord was an individual gifted with the most extraordinary acuteness of intellect—that he possessed a most profound knowledge of law—that he enjoyed a most astonishing memory—and that he was endowed with a surprisingly correct and discriminating judgment."

We quote this to prove that there was no very great wish even at that time, among his warmest political adversaries, to run him down. Conscientiousness, extraordinary acuteness of intellect, profound knowledge of law, astonishing memory, correct and discriminating judgment—what more can be demanded in a Judge?—is the first question that suggests itself, as we glance over this splendid list of qualities; but, on looking a second time, we become aware that a material one is wanting—one absolutely indispensable to the effective application of the rest. That quality was decision. Pascal says that a single additional grain of matter in Cromwell's *sensorium* might have destroyed his characteristic energy, and prevented him from attaining to greatness: this additional grain had unluckily got into Lord Eldon's The good fairy had showered most of her choicest intellectual gifts upon his head, when the wicked fairy dashed them all with the prophetic denunciation, *thou shalt doubt.* And doubt he did, with a tenacity, ingenuity, and refinement, unparalleled in the history of mind. He loved an *if* as much as Tristram Shandy hated one. At the bar, he lost all his opinion-giving business, by his attachment to this little word; on the bench, he did all that in him lay to neutralize his utility by means of it. In allusion to Lord Erskine's fondness for the first person singular, the wits of the "Anti-jacobin" apologised for not reporting the whole of one of his speeches, because the printer had no *I's* left—they might have apologised for not reporting Lord Eldon's judgments for want of types to print his innumerable *ifs*, *buts*, and *thoughs*. As he grew older, he grew worse; and, latterly, there was hardly any chance of getting him to utter a sentence without a saving clause.

The existence of this tendency is notorious, but its peculiar mode of operating is less known; and we will therefore illustrate it by an example. We quote from Sir Samuel Romilly's "Diary:"—

> Of this case, (the name is not material,) which had been argued before the long vacation, the Lord Chancellor said to-day that he had read all the evidence over three several times, and that he did not think that there was sufficient proof to warrant his directing an issue, but that as it was the case of a pauper, he would go over all the evidence once more; and for that purpose he directed the cause to stand over generally, without appointing any time for his final determination. He thus condemns all the other impatient suitors to continue waiting, in anxious expectation of having their causes decided, till he shall have made himself quite sure, by another perusal of the depositions, that he has not been already three times mistaken.

Sir Samuel observes that this habit was the more provoking, because Lord Eldon was hardly ever known to differ from his first impression. So well was this understood, that it was not at all unusual for parties to settle causes out of court, so soon as his impression could be collected. This, however, was no easy matter. What, for example, could be collected from the following?—"His Lordship said, that he would not say, that, upon the evidence without the answers, he should not have had so much doubt whether he ought not to rectify the agreement, as to take more time to consider whether the bill should be dismissed."—*The Marquis of Townshend* v. *Strangroom*, 6. *Ves. Jun.*, p. 328

Such modes of conduct and expression are extremely inconvenient to suitors; but Mr. Twiss has convinced himself, and is resolved to convince the world, that Lord Eldon will go down to posterity with his judgments, like Napoleon with his Code, (though hardly, we fancy, in his hand;) and they are boldly proposed as the touchstone of his fame. In a passage which we quote for another reason, Mr. Twiss, after citing Mr. Abercromby's testimony as above, proceeds:—"Such acknowledgments (and they are frequent in the debates from 1823 to 1827) take away from his defenders all necessity, nay, almost all excuse, for indulging in the details of panegyric. He can have no more complete and satisfactory voucher than the *reluctant* candour of his adversaries. But it is not alone upon contemporary testimonials that his judicial fame will rest. The usefulness of a judge does not cease with his employment: his judgments survive to succeeding times as lights and landmarks; and with them his reputation endures. By such remains, the lawyers of future days will form their estimate of Lord Chancellor Eldon."

Instead, however, of going to them at once, Mr. Twiss, by way of giving us a specimen of willing candour, goes first to a Number of this Journal, published more than twenty-one years ago, (October 1823,) when party politics ran high—quotes the strongest passages apart from the context—makes *them* the subject of a commentary—says nothing of a later article written in a most conciliatory spirit—and would fain lead the public to believe that we were guilty of an illiberal attack, and that he has fairly answered us.

It is told of Sheridan, that on some occasion when his conduct had been misrepresented, he was advised to set himself right with the public. In order to pave the way, he addressed a letter to the newspapers under a feigned name, pointedly restating the charge; but, as soon as he had gone thus far, his habitual carelessness came over him, and the letter was left unanswered. Mr. Twiss has done for Lord Eldon pretty nearly what Sheridan did for himself; the only difference being, that Sheridan did not attempt an answer, and Mr. Twiss has attempted one in vain. But the policy of such a course is always doubtful when so long a period has elapsed. It is never wise to pin an adversary to the precise expressions uttered at the commencement of a dispute; and the party whose defence is undertaken on this principle, is pretty sure to find himself in the condition of the boy in Don Quixote, who got a second thrashing in consequence of the Knight's interference in his behalf.

We will do our best to prevent any thing of this sort from occurring in the present instance; but we cannot allow Mr. Twiss to triumph over a highly distinguished Contributor, whom he names. He begins by impugning our authority. We spoke, it seems, "of that laboratory called Mr. Vesey's junior's Reports, comprised as it is, within the very moderate compass of *eighteen* solid octavos," and Mr. Twiss thinks he now has us on the hip. Every equity practitioner, he says, knows that there are *nineteen;* therefore you are not a good and true barrister at all, or not conversant with equity business. "In either case, it is obvious, that the criticisms, if they are to have any weight, must derive it from something more than the mere authority of the writer." To be sure they must. Testimony (as he might read in Bacon) is like an arrow shot from a longbow; the force of it depends on the strength of the hand that draws it. Argument is like an arrow from a crossbow, which has equal force, though shot by a child. Reviewers, writing anonymously, are, to all intents and purposes, crossbow men. But it hurts our feelings to be accused of ignorance. Let us see, then, how this weighty matter stands. Eighteen volumes of Vesey were completed in 1817; and it stood as an eighteen volume compilation till 1822, when another volume appeared, What more natural than, writing popularly, to speak of it as an eighteen volume book in 1823?—just as many of us went on speaking of the twelve judges in England long after they had become the fifteen.

This slip (if it be one) would hardly affect our testimony, did we wish to be received as witnesses adduced against us by Mr. Twiss; who actually attempts to bear us down by the testimony of dedications, addressed to Lord Eldon, during his Chancellorship, by practising Barristers! We shall next have dedications from courtiers cited to prove the virtues of princes, or amatory verses to prove that all the famous beauties were as virtuous as they were beautiful. When a practising Barrister dedicates to a reigning Chancellor, he means to flatter; and the most effective flattery is to praise a person for qualities which he or she ought to have, or pretends to, and has not. If a respectable man of letters had told Madame de Staël that her "Germany" was a great work, she would have turned from him with a sneer; but, by alluding to her feminine fascinations, the veriest coxcomb might have become her oracle. It would have been a hazardous feat to commend Cardinal Richelieu for his statesmanship; but a judicious compliment to his tragedy might have earned a pension or a place. Just so, Lord Eldon did not want learned gentlemen to tell him that he possessed vast learning, (which he knew as well as they did,) but to compliment him on having recast and systematized the doctrines of equity.

Such testimony, therefore, goes for very little despite of the high professional reputation of the writers; and the question must be decided by the actual contents of the nineteen volumes, (be the same more or less,*) and the fifteen or sixteen other volumes of reports, in which Lord Eldon's judgments lie, like Egyptian mummies, embalmed in a multitude of artfully contrived folds and wrappers.

"Very few words (says Mr. Twiss) will suffice upon the style in which his judgments are worded. It may at once be admitted that, as literary compositions, they are faulty enough—inconveniently parenthetical, and over-abundant in limitations and qualifications." *Considering* from what quarter this admission comes, it goes far to establish the entire charge. The distinction "as literary compositions," (a new mode of viewing them,) is a distinction without a difference; and over-abundance in limitations and qualifications is not a mere fault in style. But it is where he is driven to his proof, that Mr. Twiss's failure becomes most manifest; not from any lack of research or knowledge, but because, out of the whole of the thirty and odd volumes containing Lord Eldon's judgments, only five or six judgments capable (even in the biographer's opinion) of standing muster, can be produced; and these six were described by anticipation in the very article they are now presented to refute.—"Examples, we do not deny, might be selected in abundance, of a dissection of facts ingenious, skilful, subtle in the extreme, and, which is more to our present purpose, of a most cautious balancing and learned discussion of preceding authorities, implying a suspicion of their correctness, and casting a doubt alike over them and the decision which is about to be pronounced. But of a clear, unreserved, definite exhibition of general principles, and of what the law is, the faithful mirror of Messrs. Vesey and Co. holds no portrait, because the original does not exist"†

* An incident of the same sort occurred to the Duke of Wellington, when assailed by a mob, on his return from the Tower, during the excitement occasioned by the Reform Bill. A young man in a gig, or taxed-cart, kept close to the Duke's horse the whole way through the city, in such a manner as completely to guard one side. He never once looked up, nor had the air or manner of one who was doing anything out of the way; and we understand he remains to this day unknown, though the greatest disgrace that could have fallen on the nation was, in all human probability, averted by him.

† In the portraits of Sir Matthew Hale, and other Judges of his time, hung up in the Courts at Guildhall, they are represented with beards and scull-caps; but these portraits are not much better painted than the portraits of the Scottish kings at Holyrood, and may not be entitled to rank higher as authorities. The powdered wig gradually degenerated into an ordinary flaxen one; even that began to be left off about twenty years ago; and, since the death of Mr. Justice Littledale, not a single Judge is distinguishable in a drawing-room from the ordinary mob of gentlemen by his dress. Bishops are degenerating in the same manner.

‡ *Observations on the most Ancient Statutes.* By the Hon. Danes Barrington. 4to. P. 509.

* We beg Mr. Twiss to mark this saving clause, for the edition now in use, including the index, consists of twenty volumes; and the first five are filled with cases prior to Lord Eldon's Chancellorship.

† See this Journal, Vol. xxxix. p. 250. Mr. Twiss omits this passage, which forms the conclusion of the paragraph he quotes, as well as the commencement, which runs thus: "That his lordship is a great and learned lawyer—that he possesses a most subtle and refined understanding, and