A FRENCH VIEW OF THE ENGLISH CRIMINAL SYSTEM.

We are indebted to an esteemed Berlin reader for the following article, which we understand is extracted from the *Law Times:*

An interesting contribution appears in the *Gaulois* from the pen of M. Michels, entitled 'La justice Criminelle en Angleterre.' M. Michels, who appears as conversant with our criminal procedure as he is with that of the Seine courts, writes: L'affaire Steinheil has had one advantage. It will bring to the light of day some of the most crying imperfections of our system of criminal justice. It has moved opinion, shaken the torpor of the powers that be, called forth a report from the Minister of Justice, the nomination of a commission, the depositing of a bill in Parliament, etc. It has brought about, moreover, a comparison between the English and French systems.

Criminal justice in England is much more expeditious and much more severe than in France. How, then, comes it to pass that it is much more respected? English justice differs from French justice in more than one point. It is more grave, less theatrical, less sensational. Further, the procedure appears more impartial. The presumption of the innocence of the accused is not only in England, *une formule purement bénigne*, as is the motto "Liberty, Equality, Fraternity' inscribed upon our monuments, it is a fundamental principle which the judges never violate, and which they never lose occasion of bringing before the jury.

M. Michels, after reproducing Mr. Justice Grantham's inpromptu at the Old Bailey on the trial of Mme. Steinheil, observes: "Ce petit discours d'un juge anglais jugeant du haut de son siège la justice française n'est peut-être pas d'un goût très delicat, mais il caractérise énergiquement deux méthodes et, à ce titre, mérite d'être signalé à la commission qui vient d'être chargée d'étudier la réforme de notre code instruction criminels." M. Michels proceeds: The interrogation of the accused by the President of the Assize Courts will not survive that of M. de Valles in l'affaire Steinheil. Already several *présidents d'assises, motu proprio,* have abandoned it, and it is probable that a law suppressing it will be passed, if not in the present Legislature, at least in that which succeeds it.

In England this interrogation has been abolished for centuries; the judge who presides at assizes limits himself to deciding the advisibility of evidence, furnishing guidance on points of law of which they (the jury) may stand in need, and at the end of the speeches placing before the jury a résumé of the evidence heard. His rôle is that of an impartial arbiter. He does not interrogate accused persons; he does not lay snares for them; he does not goad them into contradicting themselves, in order to obtain from them declarations capable of making them convict themselves; he does not seek for wit at their expense. He no longer interrogates the witnesses. He does not lay himself out vis-à-vis for a kind of operation that M. Jean Cruppi, a former advocat général, called *l'extraction des témoignages* in the same way as one would say the drawing of a tooth. The accused on his part can as he wills, either entrench himself in silence, thus remaining a dumb spectator in the drama in which he plays for his honour or his life, or he can give evidence on his own behalf. If he considers it better to speak than to remain silent *il monte dans la tribune réservée aux temoins,* and gives evidence, as such, on oath, *sans avoir des gardiens à ses cotés.* In this case the accused is questioned, not by the judge, but by *l'avocat de la couronne,* who is chosen in each prosecution from among the members of the Bar, and receives a special honorarium proportioned to the importance of the case.

The witnesses also are examined by the counsel for the two parties, or by the accused himself if he be undefended. The witnesses are never examined unless in the presence of the accused and there is no reading of written depositions of absent witnesses. The antecedents of the prisoner, even if they be unfavourable to him, are never brought before the jury until they have given their verdict, *à moins toutefois qu'il ne se vante trop haut d'avoir une bonne reputation.* Usage and tradition require that the prosecuting counsel shall conceal nothing in his address to the court which might tell in favour of the accused. The end which he has in view is not so much to obtain a conviction as to guide the jury in getting at the truth.

Another important difference between the two systems is that in England there is no *juge d'instruction,* that is to say, of the judge filling the part of the *judge d'instruction français.* While in France the instruction takes place in the cabinet of the *juge d'instruction,* in the presence only of the accused's counsel and the clerk, in England it is held in open court. In France the *juge d'instruction,* is in some way obliged by the nature of his office to make every effort to find the prisoner culpable, to make him avow it (his guilt), or at least to make him make some compromising declaration. The inevitable consequence is that there is scarcely a *procès correctional* or *criminel* in which one does not hear the accused or the witnesses, and often both, complain that the *juges d'instruction* have made them say the contrary to what they wished and to what they thought. Founded or not, these protests are injurious to the prestige of justice M. Michels asserts.

In England they are unknown or impossible. The accused, as soon as possible after arrest, is brought into a public court before a magistrate who knows nothing of the case, who probably has never heard it mentioned, and who has not been able to form a preconceived opinion. The first words that the magistrate addresses to the accused are to recommend to him discretion: "Avez-vous quelque chose à dire?" he asked the prisoner. "Vous n'y êtes pas forcé. Faites-le si vous voulez, mais n'oubliez pas que ce que vous allez dire pourra servir contre vous." Generally, during this first phase of the procès the accused observes silence, and the task of proving his guilt falls upon the prosecution. The silence of the accused is not to be interpreted adversely. If, after having heard the witnesses in the presence of the accused himself—the magistrate considers there is no case against the defendant, he is immediately set at liberty. In the contrary case the magistrate sends the prisoner before *la cour d'assises.*

Finally, in France, where the separation of the powers has never existed, except in name, and where the Minister of Justice, that is to say, the Government, communicates frequently with the *juges d'instruction* by the intermediary of the Procurator of the Republic, the State in all procès which nearly or remotely affect it *à la politique,* and even in others, takes part from the beginning for or against the accused. How can the intervention of an all-powerful Government have any other effect than of corrupting unconsciously the balances of justice, and how is it to be wondered at that in a country where this intervention is the rule, not the exception, that the decisions of the Assize Courts inspire so little confidence, and are so ardently discussed? demands the well-informed French writer.

In England, on the contrary, the State preserves the strictest neutrality. The English journals so proud of their rights and esteemed so free, observe a similar attitude. When even this neutrality is not to the liking of some journals they are compelled to respect it by custom and also by the law, which in virtue of *une loi,* called contempt of court *(littéralement: mépris de la cour)* empowers the judges to punish very severely the writer of any article in the Press of a nature calculated to influence the course of justice. Action for contempt of court is sometimes taken by the tribunals and sometimes by the accused, and it often happens that the latter obtains considerable damages for comment which has been unfavourable to him.

If this English justice, writes M. Michels in conclusion—more dreaded by criminals than any other system of justice in the whole world—is universally respected, if no one criticises its decisions, if all the subjects of King Edward VII. are proud of it, this state of things is due to two principal reasons: the first is that it treats the accused, and demands that he be treated with impartiality: the second—upon which everything depends—is that the English system is quite independent of the executive power.

LATEST AMERICAN MAIL NEWS.

To the United States.

January 23.—**Umbria,** from Queenstown, mails due in New York January 31. Mark letters "via Cöln—Queenstown per Cunard Line," and post not later than 1 o'clock p.m. on Thursday, January 20.

January 25.—**Kaiser Wilhelm der Grosse,** from Bremen, mails due in New York February 1. Mark letters "Via Bremen" and post not later than 1 o'clock p.m. on Monday, January 24.

January 27.—**Adriatic,** from Queenstown mails due in New York February 3. Mark letters "Via England," and post not later than 1 o'clock p.m. on Monday, January 24.

January 30.—**Mauretania,** from Queenstown, mails due in New York February 4. Mark letters "Via Cöln—Queenstown per Cunard Line," and post not later than 1 o'clock p.m. on Thursday, January 27.

To Canada.

For the information of Canadian readers it may be mentioned that a fast mail steamer of the Canadian Pacific Railroad Company leaves Liverpool for Quebec and Montreal direct every Saturday. Letters intended for Canada by this direct route should be posted in Berlin and Dresden not later than 1 o'clock p.m. on Thursdays, and be marked: "Via Liverpool by Empress steamer."

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Letters for the above steamers should be mailed in the boxes at the station (Berlin, Lehrter Bahnhof; Dresden, Hauptbahnhof) or at the General Post-office at the time mentioned.

Letters bearing a 10-pfennig stamp per weight of 20 grammes are only valid for transit by a German steamer sailing direct from a German port. They will not be sent by an English or French steamer.

Next American Mails Due in Berlin and Dresden.

On Friday, January 21, by the S.S. **Adriatic,** left New York January 12.

On Saturday, January 22, by the S.S. **La Savoie,** left New York January 13.

On Monday, January 24, by the S.S. **St. Louis,** left New York January 15.

On Wednesday, January 26, by the S.S. **Lusitania,** left New York January 19.

On Thursday, January 27, by the S.S. **Prinz Friedrich Wilhelm,** left New York January 18.

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