

to recollect with what temper the law requires we should proceed to this trial. The form of proceeding at their arraignment has discovered, that the spirit of the law upon such occasions, is conformable to humanity, to common sense and feeling; that it is all benignity and candor. And the trial commences with the prayer of the court, expressed by the clerk, to the supreme judge of judges, empires, and worlds: "God send you a good deliverance."

We find, in the rules laid down by the greatest English judges, who have been the brightest of mankind, that we are to look upon it as more beneficial, that many guilty persons should escape unpunished, than that one innocent person should suffer. The reason is, because it is of more importance to the community, that innocence should be protected, than it is, that guilt should be punished; for guilt and crimes are so frequent in the world, that all of them cannot be punished; and many times they happen in such a manner, that it is not of much consequence to the public, whether they are punished or not. But when innocence itself is brought to the bar and condemned, especially to die, the subject will exclaim, it is immaterial to me whether I behave well or ill, for virtue itself is no security. And if such a sentiment as this should take place in the mind of the subject, there would be an end to all security whatsoever. I will read the words of the law itself.

The rules I shall produce to you are from Lord Chief Justice Hale, whose character as a lawyer, as a man of learning and philosophy, and as a christian, will be disputed by nobody living; one of the greatest and best characters the English nation ever produced, his words are these: *Tutius semper est errare in acquietando, quam in puniendo, ex parte misericordias, quam ex parte justitiae*; it is always safer to err in acquitting than punishing, on the part of mercy than the part of justice. The next is from the same authority: *Tutius erratur ex parte mitiori*; it is always safer to err on the milder side, the side of mercy; the best rule in doubtful cases, is, rather to incline to acquittal than convic-