

Sir Samuel Romilly

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SIR SAMUEL ROMILLY

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B i b l i o g r a p h y.

Memoirs of Sir Samuel Romilly, three volumes,
London, John Murray, publishers--1840.

Quarterly Review. 1812, Vol. VII.

Parliamentary Debates. Vols. XVI, XXIV, XXXIX.

Campbell, John, Lives of the Lord Chancellors of England,
London, 1846-7.

Report on Criminal Law, ordered by the House of
Commons July 8, 1819.

Sir Samuel Romilly's life exemplifies well the rise of a man, born of obscure parentage without wealth or precocity, without any of the characteristics of greatness, save perhaps an indomitable will and the determination to make a life as well as a living. Romilly did not achieve great fame, and his name is scarcely remembered in our own day, not because he was unworthy, but because the time in which he lived was inopportune for the work he attempted. The French Revolution had made even the most liberal of men look upon reform with suspicion, and King George with his ministry was violently opposed to any change in the government. So Sir Samuel merely served as an agitator, inculcating into the minds of the people the idea that certain reforms were desirable and even necessary. In another age, Romilly would have done much, but under existing conditions he could do comparatively nothing. Browning says, "It is not what man does which exalts

him, but what man would do." (1)

Thus to Sir Samuel is due, praise and honor, even though his name is wrapped in obscurity.

(1) Browning's Complete Works. Cambridge Edition, page 184.

Romilly's childhood was uneventful and on the whole uninteresting. Because his mother, Margaret Garuauet, was an invalid, the rearing of the children devolved upon Mrs. Facquer, a relative, who sought to instill into their unappreciative minds a love of the Bible, and of an English version of Telemarchus. But it was Mary Evans, a servant in the home, who, though unable to give intellectual training, did by her kindness and patience leave an enduring impression upon their lives.(1)

From his father, Samuel inherited a love and an appreciation of all that was best in life, the best in art, the best in literature. His favorite amusements were such as his home alone could afford him, surrounded by his wife and children.(2) Although of a warm temper and possessing a nature impatient of injury, especially if done to those he loved, he was generous and kindly and beloved by all who knew him intimately.(3).

Such were the surroundings in which Romilly passed his childhood, surroundings in which any normal lad would have been careless of the future and forgetful of the past.

(1) Memoirs. Vol. I, p, 9.

(2) Memoirs. Vol. I, p8.

(3) Memoirs. Vol. I, p, 7.

#3.

but it was not so with him. In his earliest infancy, his imagination was alarmed and his fears aroused by stories of devils, witches and apparitions. Dreadful impressions were made upon him by tales of murder and acts of cruelty. His dreams were disturbed by the hideous images which haunted his imagination by day.(1) No doubt this fear, this horror of all that was cruel, in a way influenced his later political career and was indirectly the cause of his earnest attempt to mitigate the severity of punishment for petty offences.

At the age of fourteen, Romilly had been taken out of the day school, in which he had learned a little French and even less Latin, and was remaining at home without any definite purpose in view. Two years were spent in this way, not unprofitable ones, for his employment, which was the keeping of accounts in his father's large jewelry store, left many hours of leisure --hours which were spent in reading without system or order, gathering information from such books as the libraries which were accessible to him afforded. Ancient history and poetry were at first his favorite subjects, but slowly he developed

(1) Memoirs. Vol. I, page 11.

a decided preference for the latter-- It was during this period that Sir Samuel conceived the idea that he was a poet, inspired to express his thoughts in eclogues, songs, and satires. Even when he gave up hope of attaining success along this line, he still intended that literature, not law, should be his main interest. Latin he attacked with great enthusiasm, and it proved with success.(1)

Italian, also, he learned, though at a later period of his life.(2) All this added to an appreciation of art and a profound knowledge of law, represents but poorly Romilly's education.

Perhaps no one man influenced Sir Samuel's life more than his brother-in-law, John Roget, at that time minister of the French Huguenot chapel which Romilly attended. Roget was a native of Geneva and an ardent admirer of Rousseau. It was he who introduced Romilly to his fellow country men's writing.(3) Of them Sir Samuel writes-- "With what astonishment and delight did I first read them. I seemed transported into a new world. His seducing eloquence so captivated my reason that I was blind to all his errors. I imbibed all his doctrines, adopted all his opinions and embraced his system of morality with the fervor of a convert to some new religion".

(1) Memoirs. Vol. I, pp. 21-22.
 (2) Memoirs. Vol. I, p. 144.
 (3) Memoirs. Vol. I. p. 31.

After having seen more clearly Rousseau's errors on important subjects, Romilly's enthusiasm lessened materially, but he still believed him capable of inspiring a young mind with an ardent love of virtue, a fixed hatred of oppression and a contempt for false glory. "I ascribe in a great degree", he continues, "to the irrational admiration of him which I once entertained those dispositions of mind from which I have derived my greatest happiness throughout life."(1)

Very different were Romilly's views concerning Machiavel, some of whose works he read about the same time. In a letter to Roget, written during the early part of 1781 he gives his opinion of "The Prince". "The picture this Italian politician gives of human nature is the blackest that ever was painted; but it seems probable that he never travelled out of his native country; and though his acute penetration may have given him a full insight into the character of his country men, he was assuredly but ill acquainted with human nature in general. When he says that men are by nature hypocrites and cowards, ungrateful and rapacious, this may possibly be as exact a copy of the manners of Italy, in an age just emerging from barbarism, as his gloomy imagination could trace; but for a representation of the human species, how false and preposterous it is!

(1). Memoirs. Vol. I. pp.31-32.

--He is the first writer perhaps, who regarding mankind with the eyes of a sullen misanthrope, has expressed no indignation at what he saw, and seemed well contented that things should remain as they were."

At the age of twenty-two Romilly decided definitely to continue in the profession of law and it was his ambition to attain superior rank in it. Accordingly he entered himself in the Society of Grays Inn, and took a pleasant set of chambers which overlooked the gardens. He carefully arranged his collection of books and began with ardor the study of law(2) a study, painful, at first, but later becoming of so much interest that with great effort Rommily tore himself away even for a short vacation--on one occasion, when "enduring" the absolute rest his health demanded, he attended a public sale of a splendid law library. The needed rest was forgotten, everything save the desire to purchase a number of books from this choice selection. He could no more resist reading the books, after they had become his, than he could refrain from buying them. As a result he studied too closely,--and returned to town not physically benefited.(3)

When it became evident to Roget, who had been forced by his weak lungs to seek again the air of his native Italy, that a return to England could not be

(2)Memoirs. Vol. I. pp. 45-46.

(3) Memoirs vol. I. p. 49.

dreamed of for many years, he and his wife were desirous of having their child with him. The conveying of the boy fell to Sir Samuel who was glad indeed of this opportunity to enjoy the pleasure not only of being with Roget and his wife, but also of seeing Paris and the beautiful cities of Italy(1) Romilly afterwards made several trips to the continent, but none were so pleasant as this one.

"Every human creature", he writes, "every building, every object of superstition, almost everything that I beheld, attracted my notice and excited and gratified my curiosity.(2)

It was in Italy that Sir Samuel met Dumont, a young man about his own age, who was studying for the church, and was soon afterwards admitted one of its ministers. Romilly in his memoirs expresses well his admiration for this new friend. "His vigorous understanding, his extensive knowledge, and his splendid eloquence, qualified him to have acted the noblest part in public life; while the brilliancy of his wit, the cheerfulness of his humour, and the charms of his conversation, have made him the delight of every private society in which he has lived; but his most valuable qualities are his strict integrity, his zeal to serve those whom he is attached to, and his most affectionate disposition." During a tour through the glaciers of Savoy,

(2) Memoirs. Vol. I, p. 53.

(1) Memoirs. Vol. I. p. 52

#8.

round the lake of Geneva by the Tête Noire, Martigny, Bex and Vevey, this acquaintance ripened into a close friendship which lasted throughout Romilly's life.(1) After a short visit to Lusanne, which was long to be remembered as including some of the happiest moments of his life, Romilly took leave of his sister and Roget, a leave taking which proved to be an eternal one to his brother-in-law.(2)

At Paris he met D'Alembert and Diderot the most celebrated of all the writers then remaining in France. "D'Alembert", Romilly writes, "was in a very infirm state of health and not disposed to enter much into conversation with a person so shy and unused to society as I was. Diderot on the contrary was all warmth and eagerness and talked to me with as little reserve as if I had been long and intimately acquainted with him. He was ostentatious of a total disbelief in the existence of a God--and inveighed with great warmth against the tyranny of the French government."(3)

At the end of the year--1784, Romilly first met through D'Ivernois, the count de Mirabeau. Mirabeau had brought with him to England a short tract which he had

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- (1) Memoirs. VOL. I. p.58
(2) Memoirs. Vol. I. p.59
(3) Memoirs. Vol. I. p. 63.

#9.

written against the order of Cincinnati, lately established in America. To Sir Samuel he came requesting him to make a translation of the work into English. Romilly undertook the task, which at times grew wearisome, nevertheless, for as he said, "the count was difficult to please. He was sufficiently impressed with the beauties of the original." "We became very intimate," Romilly writes, "As he had read much, had seen a great deal of the world, was acquainted with all the most distinguished persons who at that time adorned either the royal court or the republic of letters in France, had a great knowledge of French and Italian literature, and possessed a very good taste, his conversation was extremely interesting and not a little instructive.(1)" Romilly considered him a man desirous of doing good, whose ambitions were of the best and who proposed to himself the noblest ends(2).

The five years which had elapsed since Romilly began the arduous study of the law had not been wasted. Having placed himself under the direction of a certain Mr. Spranger, who explained what he failed to understand, and removed many difficulties, Sir Samuel spent all his

(1) Memoirs. Vol. I. page 78-80.

(2) Memoirs. Vol. I. page 80.

morning and part of his evenings at this friend's house enjoying freely his very good library.(1) Instead of resorting to any of the debating societies, which were at that time so popular, he adopted the very useful expedient of expressing to himself in the best language possible whatever he had been reading; of using arguments he had been met with, and forming them not orally, but imaginatively into speeches of his own. Occasionally, too, he attended the Houses of Parliament, and used to recite in thought or answer the speeches he heard there(2).

Sir Samuel's political career may be said to have begun in 1783, for at that time he was called to the bar.(3) The following spring he went upon the circuits, his choice falling upon Midland because there appeared to be fewer men of considerable talent or of high character as advocates upon that circuit than upon any other, and consequently a greater opening for him.(4)

His career on the circuit was not remarkable for its brilliancy or success financially; but even though his purse was full of cob-webs as Catullus expressed it he still indulged in the pleasure of giving

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- (1) Memoirs. Vol. I, p. 46
(2) Memoirs. Vol. I, p. 47
(3) Memoirs. Vol. I, p. 69
(4) Memoirs. Vol. I, p. 72

to those in need. When it became necessary for him to have a servant to receive briefs, cases, and instructions for pleadings, and to attend him in the various characters of clerk, valet and groom he chose Bickers, the infirm husband of Mary Evans, (now unable to support her) for he could not maintain them and pay the wages of a valet besides, and yet was unwilling to see this creature whom he had once loved as a mother, reduced to distress. Bickers could ride and stand behind his master's chair at dinner but had few other accomplishments. In addition to this his Puritanical and singular appearance elicited the title of "The Quaker" and excited many jokes which were more disagreeable to Sir Samuel's sensitive nature than the want of proper attendance. In spite of his increasing defects and infirmities, and his liking for liquor, Romilly kept him in his service until the day of his death, (a period of about seven years)--although he was compelled to take with him a temporary servant on the circuit.(1)

In 1805 the Chancellorship of Durham was offered him though unsolicited. He accepted not because of the great honor thereof, but because he was desirous of the experiment.(2) The following year he received information from Mr. Fox, stating that he had been appointed to the office of solicitor General. (3)

(1)Memoirs. Vol. I, p. 77

(2)Memoirs. Vol.II, p. 109

(3)Memoirs. Vol.II, p. 126

Accordingly on the 12th of February 1806 Romilly was sworn into office, whereupon this Majesty knighted him, and at the same time, Piggott, the New Attorney-General. Sir Samuel writes in his Memoirs concerning the event, "Never was any city trader, who carried up a loyal address to his Majesty, more anxious to obtain than we to escape this honour".(1)

Romilly was twice offered seats in Parliament, first by Lord Lansdowne(2), who was attracted to Sir Samuel by a pamphlet he had written entitled "A Fragment on the Constitutional Power and Duties of Juries", (3) and later by the Prince of Wales.(4) Both offers he refused on the ground that such favors might lead the world to believe that his opinions were colored by those of the giver. At this time he was determined to be independent, and not to enter the House of Commons as the agent of another person.

The twenty-fourth of March, Romilly took his seat in the House of Commons, having been elected to serve for Queensborough, being returned the following November by the same borough.(5) On April the twentieth, 1808, he was elected for Wareham, having previously paid three

(1)Memoirs. Vol. II, p. 130

(2)Memoirs. Vol.I,p.87

(3)Memoirs. Vol. I, p.86

(4)Memoirs. Vol. II, p.114.

(5)Memoirs. Vol. II, p. 131-2

thousand pounds for his seat.(1)

In spite of the fact that Sir Samuel had formerly determined never to come into Parliament, but by a popular election or upon the purchase of a seat from the proprietor of some borough, he accepted the offer of the Duke of York. The change was due to Curwen's Bill which declared illegal the purchase of seats. There was no choice but to come in on such an offer, or decline Parliament altogether. Of the two Romilly chose the former.(2)

During the summer of 1818 Romilly was elected to represent Westminster.(3) Among the strange things which happened was the decided part which, Jeremy Bentham took against him. He did not vote, it is true, but he wrote a handbill, avowed and signed by him in which he represented Romilly to be a most unfit member for Westminster, as being a lawyer, a Whig and a friend only to moderate reform. Sir Samuel, was not in the least offended at this hostile interference for he knew Bentham to be a very sincere convert to the expediency of universal suffrage. "He is too honest," Romilly adds,

(1) Memoirs. Vol. II, p. 164.
 (2) Memoirs. Vol.III, p. 72.
 (3) Memoirs. Vol.III, p. 363.

#14.

"in his politics to suffer them to be influenced by any consideration of private friendship".(1)

In 1807 the possibility of Sir Samuel's arriving at the highest honors of his profession, (that of the Lord Chancellor of England) seemed exceedingly favorable. He had filled the office of Solicitor General, under the administration, which was formed by a union of Mr. Fox and Lord Grenville. The present ministry, Romilly perceived could not be long in power, considering the crises to which public affairs were hastening. He was also certain that should those, whom they had supplanted, recover their authority, Lord Erskine would scarcely again be made Lord Chancellor. "Paggott", Romilly writes, "the late attorney-general, would probably decline a situation of so much fatigue, if it were offered him; and there is no other lawyer at all connected with any of the men, who would form the administration, who can aspire to so high a station".(2)

In this same letter, which is one addressed to C____ Sir Samuel writes. "In these my half-waking dreams, I sometimes suppose that season to have arrived when His

(1) Memoirs. Vol. III, p.365

(2) Memoirs. Vol. III, pp.394-5

#15.

Majesty, having lived to an extreme old age, shall have descended into the tomb of his fathers, and when the Prince shall have ascended the throne which he was born to inherit. I suppose him to have delivered the Great Seal into my hands, and to have done it with assurances, and in a manner which convinced me that I had his entire confidence.(1) I imagine all the persons who have been newly appointed to the highest offices of the state to be animated with the same zeal for the public good. All are actuated by the same spirit; all feel the same contempt for the personal advantages to be derived from office, and for the mean homage which attends the exercise of ministerial patronage".(2)

This ambition which Sir Samuel entertained of being raised to the office of Lord Chancellor of England, was not a selfish one, but carried with it always the desire to better the conditions of humanity- the thief, the criminal and the slave, a class concerning which he knew little from personal contact. To uplift these men he needs must have power, so power he sought, power he

(1) Memoirs. Vol. III, pp. 401.

(2) Memoirs. Vol. III, p. 402.

dreamed of possessing. "When I last addressed you (1809)," writes Romilly in a letter to "C", "I looked forward to what then seemed within the probable compass of human events--my being raised to a higher judicial station-- I was busied in preparing myself for the discharge of its sacred duties, and in happy anticipation I already exalted in the opportunity which such a station must afford of benefitting the present as well as future generations".(1)

Concerning this office and its authority, Sir Samuel writes in 1801--"In the present state of society, I know of no situation in which an individual can have a greater influence on the happiness of mankind than that of a chancellor of England. He derives peculiar importance from the circumstances of its being in a great degree, an unwritten law that is administered where every decision becomes in its turn a precedent; and where it is impossible in many cases, to decide as judge, without laying down a rule as a legislator--, he has always a seat in Parliament, and in the present order of things, his situation gives him a degree of weight and authority in everything that he proposes, which no talent, or integrityity not invested with magistracy can confer.

(1) Memoirs. Vol. III, p. 410.

Whatever great reforms are to be made in the civic and criminal jurisprudence of the country are wholly in the power of the Lord Chancellor."(1)

Six years later we find a change in Romilly's attitude toward the office of the Keeper of the Great Seal. He no longer believed that this great authority carried with it the power to serve mankind, for the influence of the French Revolution had produced among the higher orders a horror of every kind of innovation; among the lower a desire to try, the boldest political experiments. All felt alike a distrust and contempt for moderate reforms.(2) A Chancellor is not all-powerful, he writes, "he may, indeed, alone correct the abuses and reform the practice of his own court, but as to any great scheme of public benevolence, it is impossible for him to convey them into execution without the co-operation of his colleagues, and the support of Parliament. There would only be the pain of being tantalized with the delusive appearance of accomplishing great objects, which as he endeavors to reach, will constantly elude his grasp."(3) At the time Romilly is convinced that there is no prospect

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- (1) Memoirs. Vol. III, p. 382.
(2) Memoirs. Vol. III, p. 399.
(3) Memoirs. Vol. III, p. 400

of doing any public good, should the office be offered him, for the time was not propitious, the Prince was neither frank nor beneficent, nor was Parliament actuated by the purest patriotism. Thus when the course of public events, seemed to have brought this object more within his reach,--it at the same time had rendered it far less an object of desire.(1)

In 1813 we find these dreams, being almost realized, due to a combination of incidents. Mr. Nash, an architect of some prominence who was at that time in great favor with the Regent, and on intimate terms with Lord Yarmouth, called on Sir Samuel, informing him that the Prince was desirous of seeing and consulting him upon the conduct of the Princess of Wales, a favor which Romilly refused to grant, for as he said, the treatment of the Princess was a matter of great public concern, and that it appeared to him, that it was very unconstitutional for the Sovereign to advise with any persons but his Ministers on any public matter.(2) In a conversation several days later Nash stated that Yarmouth had asked him whether he thought Romilly so much of a party man, as on that account to have any personal objections to him, and Nash asked,

(1) Memoirs. Vol. III, p. 395

(2) Memoirs, Vol. III, p. 87

but as entirely from himself if Sir Samuel would think it a duty to refuse the Great Seal if it were offered to him, unless all of his political friends formed part of the administration. "I told him", Romilly writes, "that it was not by party motives that I was actuated; but that my opinion was, that no good could be done to the country unless those men, who had acted upon Mr. Fox's principles were in administration, and that I should not consent to form part of any administration in which they were not comprehended".(1)

Four days later followed another call from Mr. Nash, who reported that the Prince was extremely anxious to see Sir Samuel, and that he thought that if Romilly saw him, what he should say to him, might lead to a total change of administration. He further stated, that the Prince had talked much of him, and of the confidence he was disposed to place in him.(2)

Disappointment was to come to these dreams; but the disappointment was not bitter, for the office had ceased to be an object of desire. The ministry did change as Romilly prophesied, and during that very year,

(1) Memoirs. Vol. III, p. 90

(2) Memoirs. Vol. III, p. 91

nor was Erskine again given the Great Seal, but instead it was restored to Lord Eldon April 1, 1807.(1) Even before Sir Samuel's death the old king was removed from the throne by mental incapacity. His son, the Regent, showed sufficiently by his conduct that those political principles which Romilly had always professed, must exclude those who act upon them from his favor.(2)

Thus was shattered his dream and we find Romilly during the last year of his life being elected by Westminster to serve in Parliament. Concerning his life's work, his aspirations and failures he writes in this the last "letter to C", "The faculties which I possess and the influence which I have in Parliament are not sufficient to enable me to carry there any important measure; yet it remains for me to propose what I think right, to resist what is pernicious; to support any opinions by sound arguments and on generous principles; and to leave to the world an example in public life of honesty, independence and patriotism."(3)

Romilly's principle interest lay in his attempt to reform the criminal code of England which made petty larcenies punishable with death;___ but all liberal

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- (1) Campbell's Lives of Chancellors. Vol.VII,p.190.
 (2) Memoirs. Vol. III, p. 410.
 (3) Memoirs. Vol. III, p. 411.

measures which carried with them the good of humanity, found in him a loyal advocate. He was shocked at the inhumane treatment inflicted by the army and naval officers upon those of less fortunate positions and never failed to use his influence for the lessening of this evil.(1) He introduced bills concerning the bettering of poor houses,(2) and advocated the education of the poor masses.(3) Opponents of the slave trade had in him a staunch ally;(4) nor did his humane spirit overlook the cruelty to animals. Upon this subject he said- "Legislature had a right to prohibit those vicious habits which tended to make men bad members of society, and led to the commission of atrocious crimes; that habits of cruelty toward animals led to the exercise of cruelty towards human beings".(5)

Sir Samuel's Parliamentary career is noted for his noble, although on the whole ineffective attempt to revise the criminal code of England, which had been outgrown by the spirit of the age.

At the beginning of the nineteenth century English laws provided that persons found guilty of petty larcenies were to suffer punishment of death.(6)

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- (1) Memoirs. Vol. II, p. 134 and 143
 - (2) Memoirs. Vol. II, p. 376
 - (3) Memoirs. Vol. II, p. 216
 - (4) Memoirs. Vol. II, p. 180
 - (5) Memoirs. Vol. II, p. 287
 - (6) Memoirs. Vol. III, p. 239

Laws severe as these were existing in an age when life was considered dearer than ever before, were not enforced; consequently crimes were increased rather than diminished. Such a code seemed to Romilly useless and absurd, for it did not in any way justify its existence.

Considering punishments as they operate for the prevention of crimes, he thought they might be divided into three classes: the principle of the first was that the punishment of the individual should operate on society in the way of terror; second, offending persons should be powerless to commit crimes in the future; the third principle involved the reformation of the guilty party.(1)

Concerted action seems to have been brought to bear in clearing the offender. Member of society who had suffered heavily from theft, were loath to prosecute lest punishment of death be inflicted. Mr. Wilkinson, a merchant in London stated a case of property to the value of 1,000 pounds stolen from him, where he was deterred from prosecution by the severity of the punishment.(2) Many similar cases were reported; even petitions were sent to the House of Commons, beseeching a revision of the code for protection of property, ~~and~~

(1) Parliamentary History. Vol. XVI, p.944

(2) Report on Criminal Laws, ordered by House of Commons to be printed, July 8, 1819.
p.9

chief among these being from the bleach-greens in North Ireland, the master calico printers in the vicinity of London(1), and the corporation of that same city(2). The first duty of legislature was not fulfilled, namely, that of giving to a citizen protection in his rights and property, for their severity even though seldom enforced, tended to intimidate the prosecutor.

Witnesses, who were overpowered by tenderness for life, would not appear to testify against the accused one unless compelled to do so; even when it was impossible to avoid the ordeal, they attempted to disguise and withhold the truth, the whole of which they were sworn to speak, on account of the dislike of swearing away a man's life for the matter of five shillings.(3)

But the power of life and death lay principally in the hands of the juries who, when no other method of saving the offender suggested itself, brought in a verdict of "Not guilty", and the thief escaped to repeat the crime perhaps, without suffering any punishment whatever. Juries more often resorted to the device of reducing the value of the article stolen in those larcenies where capital punishment depended on value.(4) The same

(1) Memoirs. Vol. III, Pp. 364-366.

(2) Parliamentary History. Vol. XXXIX, p.83

(3) Quarterly Review. 1812. Vol. VII. p. 162.

(4) Report ordered by House of Commons.

July 8, 1819, p.13.

instances where they dared not try this expedient they set forth the claim that all the goods missed were not stolen at one time. Since no proof could be found to the contrary, the accused one received his sentence based upon the idea that the theft amount to thirty-nine shillings.(1) "Some of the cases which occurred about this time are of such a kind that it is difficult to imagine by what casuistry the jury could have been reconciled to their verdict. "William Sherrington in October 1732, was indicted for stealing privately in a shop goods which he actually sold for one pound five shillings, but the jury found that they were worth only four shillings, ten pence. Mary Brodley in May 1732 was indicted for stealing in a dwelling house lace which she had offered to sell for twelve guineas and for which she had refused to take eight. The jury, however, who found her guilty, claimed the lace worth no more than thirty-nine shillings.(2)

"A penal law", says Sir Samuel, "not ordinarily executed must be deficient in justice or wisdom or both. Laws to be effectual must hold out a terror to the individual. What terror could a law carry with it when it is known that it was never put in force but remained a dead

(1) Report ordered by House of Commons,
July 8, 1819, p.13.

(2) Quarterly Review. Vol. VII, pp. 166.

letter on the statute books(1). In 1805 of the 350 who received sentence of death, 68 were executed; in 1806 of the 325 sentenced 57 were executed, and in 1807, only 63 out of the 343 were capitally punished."(2)

That the code, severe in theory but laxly enforced, was the cause of the evident increase in crime, is proved by the decrease which followed when the laws were revised. Statistics show a decrease in those cases where capital punishment, which had been once inflicted, was changed to a less but more certain penalty.

England and Whales, excluding London and Middlesex,

upon 8 circuits--executed ---committed

3 years 1827-28-29 54 3950

3 " 1833-34-35 1 3643.

London & Middlesex -- executed ---- committed

3 years, 1827-28-29 42 672

3 " 1833-34-35 1 649

Upon the other hand those crimes for which the punishment of death continued to be inflicted, namely arson, murder, attempted murder, highway robber, and rape, increas-

(1) Parliamentary History. Vol. XXIV, p.563-4.
(2) Quarterly Review. Vol.VII, p.160.

3 years	1827-28-29	108 executed	1705 committed
3 "	1833-34-35	102 "	2247 \$

Here is found an increase of 31% while above a slight decrease is to be noted.(1)

It was during the late summer and early fall of 1804 that Romilly at the Isle of Wight, firmly resolved to introduce Bills into Parliament concerning the Criminal Law.(2) The following spring, he was granted leave to bring in a bill repealing the law which made pick-pocketing punishable with death. A long debate took place, the chief objection being that the crime had become extremely common and was increasing. Sir Samuel stated that this was an argument for, rather than against the Bill, because there could be no better reason for altering a law, than that it is not efficacious, and that instead of its prohibiting crimes, offences are multiplied under its operation.(3). The following July, the Bill became a law, having passed the House of Lords without discussion.

In February, Romilly resumes(4) his task, this time, attempting to revise the laws concerning stealing privately in shops, in dwelling houses, and on board vessels in navigable rivers. A month later he published

(1) Report on Criminal Law, ordered by House of Commons, July 8, 1819. p.21. Statistics taken by J. T. Barry, Esq.

(2) Memoirs. Vol. II, p. 229 (3) Memoirs. Vol. II, p.244

(4) Memoirs. Vol. II, p. 254

the substance of his speech upon these Bills, in the form of a pamphlet with the title, "Observations on the Criminal Law as it relates to Capital Punishment and on the mode in which it is Administered".(1)

It was agreed that the principle of Romilly's bills should be discussed the first day of May. Accordingly, Sir Samuel, understanding that two of them, those relating to stealing in dwelling houses and navigable rivers, were to be opposed by the ministry, and as there was a very thin House, decided it more prudent to take first the Bills that were certain to be opposed, hence he began with the former. Heated discussions followed, which resulted in a loss of the Bill by a majority of two, a fact which was due to the absence of those who wished well to it(2). Opposition was declined that which related to privately stealing in shops and the report of that Bill was received. On the second reading it was rejected by a majority of twenty, but later was carried by even a greater number.(3) During the spring of 1810 the Bill passed the House of Commons but was thrown out of the House of Lords. The third reading of the Bill was heard and passed. This was on the 14th of April, 1818,

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- (1) Memoirs. Vol. II, p.303-4
(2) Memoirs. Vol. II, p.315
(3) Memoirs. Vol. II, p. 316.

and marked the end of Sir Samuel's Parliamentary career.(1)
A career not at all wonderful or brilliant, but one noted
for an untiring effort to better humanity.

It is ever thus with the moderate sanè reformer;
he has neither a following of the conservatives, nor of
the radicals. There is no peace for him; no honors come
to him. Romilly's measures failed, because the members of
Parliament were far removed from the Criminal law, the
evils of it did not touch them, therefore, they could
see nothing wrong in it. With the business people, and
those who suffered from the punishment it was different.
Facts and conditions rather than philosophy brought things
very close home to them .

But in spite of rebuffs, Sir Samuel's broad
vision taught him that his life had not been futile.
Having perceived his purpose in life, he unfalteringly
pursued it to the end. Truly such a life justifies its
existence. "In following the course of honesty,
independence and patriotism I shall not have lived in
vain; and little as those who breathe the same air with
myself may profit by my exertions, it is possible that the
happiness which those who are to come after me, may, which

(1) Memoirs. Vol. III. p. 365

a remote posterity may enjoy, may in some degree, be attributable even to my unsuccessful efforts and rejected motions."(1)

Less than a hundred years later a fellow countryman of Romilly adequately described the motive of such a life.

"A paradox,
Which comforts while it mocks,
Shall life succeed in that it seems to fail:
What I aspired to be
And was not, comforts me."(2)
Might not Sir Samuel's career he called a failure
which was essentially successful?

In conclusion, one might say that his home life was beautiful, in so far as one may judge from his memoirs. Romilly's natural reticence kept him from writing much on this subject. Scattered here and there we find accounts of holidays spent with his wife and children, and of the happiness he experienced in being with them alone. From the Isle of Wight he writes to Dumont.

(1) Memoirs. Vol. III, p. 411.

(2) Robert Browning. Cambridge Edition, p.388.

"We arrived last Saturday, and though so short a time has elapsed, I seem to be quite settled here, and am enjoying what seems to me like perfect leisure. I have nothing to do all day but to amuse myself with the books I have brought with me, to stroll about the country or sail upon the sea, and admire the cheerful and varied scenes with which this neighborhood abounds. My only business if business it can be called, is that I have undertaken to be William's preceptor for an hour or two every day, lest he should forget, while he is here, all that the able Buchet has taught him. I hope to enjoy for some weeks at least, the greatest of earthly blessings--the most perfect calm and tranquility, in a beautiful country, and with those who are dearest to me in the world.(1)

Sir Samuel did not marry early in life, in fact it was not until 1798 that Anne, the eldest daughter of Mr. Garbett of Knill Court, Herefordshire, became his wife. Of her he writes,—"For the last fifteen years my happiness has been the constant study of the most excellent of wives, a woman in whom, a strong understanding, the noblest and the most elevated sentiments and the most courageous virtue are united to the warmest affection and to the utmost delicacy of mind and tenderness

(1) Memoirs. Vol. II, p. 226-7

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of heart; and all these intellectual perfections are graced and adorned by the most splendid beauty that human eyes ever beheld".(1)

So devotedly did Romilly love "my dear Anne," as he always wrote of her, that when she after an illness of a month, passed away, October, 29, 1818, he three days later, being weighed down by anxiety and grief took his own life.(2)

(1) Memoirs. Vol. I, p. 41
(2) Memoirs. Vol. III, p. 368.

Appendix.

The only source material concerning the life of Sir Samuel Romilly, available to the writer, was to be found in his *Memoirs*, published in London, 1840. Although the title "Memoir" is applied to the whole, as a matter of fact the journal of his Parliamentary career and letters both to and from friends, fill at least two of the three volumes. Romilly began his *Memoirs*, August 16, 1796, at the age of thirty-nine, relating the events of his life from infancy till the year 1778. After an interval of seventeen years, he continues this narrative telling the incidents of his youth and early manhood until 1789. In 1802 he gives an account of his last trip to Paris. Three years later the *Memoirs* are resumed, beginning in 1806 with his Parliamentary career and continuing until his death in 1818. This portion devoted to his public life, takes the form of a journal, having been written day by day, therefore needs must be more accurate and authoritative than that written from memory. No original material exist from which it would have been possible to gather the facts concerning Sir Samuel's life during the sixteen years which elapsed from 1789 to the beginning of 1805. So this interval has been filled by the editors with selections of letters both from his own

pen and those of his friends, well calculated to supply the deficiency. Last are the "Letters to C", which include four letters, two of which profess to have been written to a young barrister who might form expectations of rising to the highest eminence in his profession. As a matter of fact Romilly wrote them himself. Later follow the two which contain reflections on the duties and possibilities of the Lord Chancellor's office.

Concerning the motive of the Memoirs Sir Samuel says. "In truth it is for myself that I write, for myself alone, for my own instruction and my own amusement." This is no doubt true, for at that date he had not been brought before the public. His parliamentary career had not begun, nor had he any reason to suppose that he should receive the honors which were afterwards heaped upon him. (1)

In 1813 we find many changes in Sir Samuel's condition, and also a change in the motive of these memoirs, which he has now resumed. He himself words it aptly for us. "Within the last few years, I have been in situations that were more conspicuous; and though it has never been my good fortune to render any important service, either to my fellow creatures or to my country,

(1) Memoirs. Vol. I, p.40.

yet for a short period of time, at least, some degree of public attention has been fixed on me. It is, however, with no view to the public that I am induced to preserve any memorial of my life; but wholly from private considerations. To these (meaning, his children)--and even to my dear wife--if as I devoutly wish, she should many years survive me, it may be a source of great satisfaction to turn over these pages; to learn or to recollect what I was, what I have done, with whom I have lived and to whom I have been known. It is therefore to enjoy conversation with my children at a time when I shall be incapable of conversing with any one, and to live with them, as it were, long after I shall have descended into the grave, that I proceed with this narrative of my life."(1)

The journal of his Parliamentary career is more perfect and less personal than the memoirs, thus leading one to believe as did Dumont, who in a letter to Whishaw set forth his ideas concerning the motive of the whole. "I think also that it must have occurred to him--(Romilly) as to every one who writes his own life that these recollections might be one day published either by his friends or from some accidental cause, and this appears to me the more probable from the habitual reserve which is preserved toward the persons mentioned in them".(Introduction. Vol. I. p.X)

(1) Memoirs. Vol. I, p.40

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