

of indecency? Again, there are some cases of a terrible kind in which a prosecutor is cross-examined and in which, if the suggestions made against him are true, he is not fit for the society of decent people. Is the prisoner to be allowed to go into the witness-box and to deny everything the prosecutor has said and to walk out of the box as if he were a respectable and decent member of society who had the misfortune to be improperly accused of the offence? Care must, of course, be taken that a man who has been convicted of crime is not convicted by reason of his bad character, but it is not a good reason against the proposed change in the law to urge that men who have been convicted of crimes and who elect to give evidence are not placed by this bill in the same position as men of good character who elect to give evidence. We need not shed many tears over the habitual criminal, although we must take care that he gets justice. It must not be forgotten that in the twenty-five or twenty-six Acts under which the defendant is already made a competent witness there is no provision to prevent his being cross-examined like an ordinary witness. Here is a specimen of one of them. Sir William Harcourt's Explosive Substances Act, 1883 (46 & 47 Vict., c. 3), s. 4, enacts that "in any proceeding against any person for a crime under this section such person and his wife, or husband, as the case may be, may, if such person thinks fit, be called, sworn, examined, and cross-examined as an ordinary witness in the case." The Lord Chief Justice of England is of opinion that if a prisoner elects to go into the witness-box he ought to be liable to be cross-examined to his credit like any other witness, and although I entertained a different opinion for some time I have quite come round to his view. If a prisoner has been convicted over and over again he had better not go into the witness-box. The case for the prosecution will then have to be proved against him as at present, and the judge trying the case must be trusted to make the jury understand this.

The third point is—If a prisoner does not elect to go into the witness-box, should any comment be allowed to be made upon that fact? Juries will soon know that prisoners can go into the witness-box in all cases, and will take notice of the fact when they do not do so. Smith is tried in the morning, and his counsel with a flourish of trumpets refers to the salutary change