The Legal News.

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Mr. Uttley, in the *Law Journal*, refers to a trial for bigamy at the Manchester Assizes, in which a case of hardship against the prisoner was felt to exist under the law. "According to the present state of the law," he says, "a man who is being tried for bigamy must prove, if possible, that he has not heard of his first wife for a period of seven years, or else that he has reason to believe she was dead, before he married a second time. Curiously enough, however, the law will not permit him to give evidence himself, nor yet allow him to call his wife as a witness for himself. This is, of course, an undoubted hardship on a prisoner if innocent, and well merited the strictures of the learned judge. It appeared that a clogger was charged with bigamy, and to the woman with whom the bigamous marriage was celebrated the prisoner represented that he was a widower, that his wife had been dead nine years. The supposed wife subsequently learned that his real wife was living, and she gave information to the police. Counsel for the prosecution pointed out that if a prisoner had never heard of his wife for a period of seven years, or had reason to believe that she was dead when he went through the marriage ceremony, then the existing law demanded that on the prosecution should rest the onus of proof that he knew she was alive at the time. The judge asked how the prisoner was to prove what the law said he had to prove when he was not entitled to give evidence nor allowed to call his wife. Counsel for the prisoner naturally pointed out that it was an extreme hardship, that while the burden of proof rested on the prisoner, he could neither be put in the witness-box nor call his wife. The judge agreed that the prisoner was under a hardship, and said it was due to a shocking and barbarous state of the law. He hoped the law would soon be altered, but meanwhile they must act in accordance with it. The prisoner was found guilty, and sentenced to a term of imprisonment. Meanwhile, it is to be hoped the suggested alteration will be carried out."

At the recent Bedford Assizes, a prisoner on his trial for rape, after giving evidence himself in denial of the charge, under the Criminal Law Amendment Act, 1885, proposed to call one of the jurors as a witness to his character. Mr. Justice Williams declined to allow the juror to be sworn, but said that he might give his fellow-jurors the benefit of his knowledge in deliberating on the verdict, and this having been done, the jury acquitted the prisoner. The *London Law Journal* doubts whether the course pursued on this occasion was in accordance with precedent. "It appears," says our contemporary, "to be a settled rule (see 'Best on Evidence,' 7th edit. p. 193) that a juryman may be a witness for either of the parties to a cause which he is trying, and 'it is essential that this should be so, as otherwise persons in possession of valuable evidence would be excluded if placed on the jury panel, and might even be fraudulently placed there for the purpose of excluding their testimony.' It is said, too, (see 'Starkie on Evidence,' 3rd edit. p. 542), that if a juror know any facts material to the issue he ought to be sworn as a witness, and if he privately state such facts, it will be ground of motion for a new trial. The rule was applied to a criminal trial in *Regina* v. *Rosser*, 7 C. & P. 648; and though we can find no instance of its being applied to a witness merely to character, we cannot but think that it ought to be applied to such a witness, on the ground that the test of cross-examination cannot be properly employed to testimony privately given in the jury-box. It is true, no doubt, that witnesses to character are seldom cross-examined, but their liability to cross-examination is undoubted. Moreover, if evidence as to character be given privately in the jury-box, there will not be the same facility for the prosecution, under 6 & 7 Wm. IV. c. 111, giving evidence, if they should happen to possess it, that the prisoner has been previously convicted of felony."