

perchance the authorities binding on the Court happen to have decided a case foolishly some hundred years ago the present generation of judges is bound to perpetuate the folly until some higher Court, or the Legislature, steps in and undoes it.

That is one of the penalties we pay for the principle that the law should be certain. In many matters it is really of no material consequence which way a rule is laid down, but when it is laid down it becomes of moment that it should be adhered to. On the other hand there are cases where rights are affected in which real injustice may be continually done by maintaining in force some piece of judicial folly which has acquired the force of "authority." In this Province we have an obliging Legislature ready annually to correct all real grievances of that kind which may arise, so that perhaps, as far as we are concerned, we have not much ground of complaint; with our fellow subjects in England the case is different and the ponderous judicial or legislative machine is slowly and with difficulty and at great cost moved. We had a striking instance of that in the case of *Fookes v. Beer*, 9 App. Cas. 605, when the House of Lords considered itself bound by a foolish judge-made law, which had ultimately to be corrected by legislation. See Ont. Jud. Act, s. 58 (8).

INCREASED PUNISHMENT OF CRIMINALS FOR PERJURY.

Since the introduction of the provision permitting prisoners to testify on their own behalf, we have frequently heard declarations from certain occupants of the Bench when pronouncing sentence on convicted prisoners, that their punishment should be increased by reason of their having perjured themselves.

Is it not unjust and contrary to the spirit of our criminal jurisprudence to thus punish men who have been neither charged, tried nor convicted of the specific offence of perjury for which they are thus summarily punished? Is it not also illogical to thus punish for perjury a prisoner who has been convicted of an entirely different offence, and permit the defeated litigant in civil proceedings to go free? Why should this unfair distinction be made just because a petit jury has seen fit to disregard the evidence of the prisoner?

It may also be asked, what about a prisoner who has so falsely testified and been acquitted? Or is it only when he has been