EVIDENCE VS. PROCEDURE.

To make an effectual attack upon the present method of procedure in the Law Courts, to expose all the weak points and to suggest remedies for them would require far more legal knowledge than is usually possessed by those who follow Insurance as a business, either practically or theoretically. To be a thorough underwriter involves intimate acquaintance with Insurance law, both statute and precedent, but a knowledge of procedure can only be gained by constant study and practice in the courts. It is not however, out of the province of Insurance Journalism to point out what, to an outsider, bears the appearance of a wrong, and considering the important place in Law occupied by Insurance, a protest against vexatious procedure may well be entered by a Journal conducted in the interest of underwriters and Insurance Companies.

Procedure not evidence or justice seems to be the pivotal point upon which the success or failure of a case principally depends. The right or wrong is entirely overlooked by the lawyers, the manner of engineering a case through the greatest number of courts being the primary object that engrosses the legal genius of the country. An ounce of procedure in defence is better than a pound of evidence in prosecution.

There are right and wrong methods of doing everything, and it is advisable that the former should be as strictly adhered to as it is possible with justice, so that loose practice may not be encouraged. But it hardly accords with the popular idea of justice, that right should be defeated and wrong prevail through mistake or ignorance. The barbarous principle that might is right is as effective in its sway to-day as it ever was in the days of brute force: then, it was the might of muscle, now, it is the might of intellect and shrewdness, which is more relentless in its tyranny than ever was the mailed arm of antiquity: then, a touch of generosity could soften the blow: now, the science of intellect knows no sympathy, has no soul, but must work out its conclusion, good or bad, by rule and line, as interpreted by the sharpest brain of the hour.

The words of Sir Walter Raleigh are as true to-day as when written, and only serve to show that there is nothing new in the world, and that what was a folly centuries ago is still uncured, rather grown worse with years.

> "Tell wit how much it wrangles
> In tickle points of niceness;
> Tell wisdom she entangles
> Herself in over wiseness;
> And when they do reply,
> Straight give them both the lie."

There are two kinds of wrongs; fundamental or moral wrongs, such as murder, lying, stealing, &c., the knowledge of which, whether the result of nature, or ages of education, seems innate with us; and arbitrary wrongs, made such for expediency by the act of government, but possessed of no inherent evil. To this latter class belong accidental errors and flaws in legal procedure. It may, then, with some reason, be asked—is it well that the penalties consequent upon the committal of a wrong of the first class should be escaped by the criminal because of the unintentional committal, by the prosecution, of a wrong of the second class? Or, to put it more plainly, which is the better, to arrive at a righteous decision by imperfect means, or at an unjust decision by means theoretically correct?

To cite cases and enter more fully into this subject in all its bearings, would, as before stated, require greater knowledge and resources than are at our command; but that the evil here referred to is a reality and of frequent occurrence in our courts, is a noticeable fact to all who watch with any interest the proceedings in our halls of justice. The following true incident will illustrate the power of a technicality over evidence of the strongest character. A notorious ruffian was on trial for murder, the evidence was direct and irrefragable, and the man was sentenced to suffer the severest penalty for his crime. During the course of the trial the prisoner, who was a very desperate character, was handcuffed by order of the judge, who had good reason for fearing that the man would make an attack on those about him in court. The decision of the court was appealed from on the ground that the prisoner had not full and free use of his hands for his defense at the trial, the appeal being based upon an old statute hundreds of years old, which had been enacted for the benefit of those tried on criminal charges, who at that early date were not allowed counsel. The Court of Appeal quashed the conviction and granted a new trial. Unfortunately for the prisoner he got a new trial much sooner than he anticipated, for the public were so tired of waiting for correct procedure, that they called upon Chief Justice Lynch to try the case, and that worthy and expeditious gentleman signed the burial certificate of the accused in less than two hours.

INSURANCE OF RAILWAY MEN.

The above is the title of an article in the *Railway Age* of the 1st instant, and the subject it touches upon is one well worthy of consideration, not only because of the importance of the subject itself, but because it opens the way to even a wider field of labor than that immediately under discussion.

It is of course well known that the work necessarily required of many Railway employees is such as to exclude them from the benefits of life insurance in those Companies that accept only first-class hazards, so that to Mutual Benefit Societies formed for the benefit of such classes, they naturally turn. There can, at least, be one thing said in favor of such societies formed by and under the control of the employees of any Railroad, that they are not graveyard speculations, but *bona fide* institutions carried on with the honest intent of benefitting all those who are connected with them. If, therefore, it is not from any want of good faith that these associations as a rule are not successful, it mu