

The Legal News.

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LEGISLATION.

The enormous cost of legislation by parliaments is not its greatest drawback. The imperfection of the work may be reduced to a *minimum*, without much difficulty. The great danger consists in the proneness of such bodies to be carried away by hastily conceived opinions. The difficulty in dealing with this is, that the motives which prompt enthusiasm are generally respectable. Philanthropists constantly and it may almost be said, systematically disregard two considerations, which it is important to keep always in mind. First, an abstract truth is not always practically applicable. Second, the surface view is seldom correct. This is impliedly admitted in the familiar expressions: "such and such a view is a superficial one,"—"it does not go to the root of the question."

"Errors, like straws, upon the surface flow:
He who would search for pearls, must dive below."

The bills presented to parliament every session furnish examples which strikingly illustrate this danger. Many of them are strangled by the tactics of those who, having the direct responsibility of results, are interested in stopping bad measures; but some arouse sympathies, and enlist interests, which are not subject to such control. In addition, there is the not unnatural desire to show something done, as a return for the cost of all this machinery. This last snare is quite as great for the dignified pieces as for the pawns.

The present session has not been lacking in the suggestion of perilous legislation. The three bills to which it is intended, now, to direct attention particularly, have met with serious support from members whose influence is not only great, but generally deserved.

The first in the order of date of presentation to the house, is the bill to amend the law of evidence in criminal matters, by making the person charged, and his wife, or her hus-

band, as the case may be, a competent witness on every hearing, at every stage of such charge. The bill provides that the person charged cannot be compelled to be a witness on any such hearing, or the wife or husband, without the consent of the person charged.

No statistics are produced to establish that the law as it stands works injustice. It is pure theory, and two arguments—only two—are urged in support of this fundamental change in the criminal law.

The first is, that the evidence of the accused is admitted as to assaults, and that therefore it should not be refused as to greater offences. There are certain arguments which do not merit a formal refutation, although they may have influence with a certain class. We may say of this one, with Rabelais:—"Ainsi (Antiphysie) * * tiroyt tous les folz et insensez en sa sentence, et estoyt en admiration à toutes gens exceruelez et desguarniz de bon jugement et sens commun."

The other argument is, that although the person charged will not be believed, it is fair to give him the right to swear to his story, as it is *his only chance*. This may be called the sporting argument. Don't shoot a bird sitting, a hare in her form, or a stag at gaze.

It is not intended to answer such trivial arguments, advanced to overwhelm the experience of the civilized world; but there is a consideration which has not been put forward, and it may have weight with those who are not too fatuous to listen to reason.

It is evidently meant, by this proposed law, to confer benefits on the accused. By an amendment to the bill, the member for West Huron admits, that his proffered gifts conceal a real danger. Evidently it is an advantage to the self-confident man, particularly if guilty; it is a manifest disadvantage to a timid one, no matter how innocent. But, to go to the root of the question, the great objection to making a person charged with crime a witness in his own case depends on a dogma of the English criminal law, which assumes that a man should not be compelled to criminate himself, because it would be a violation of the natural right of self-defence. If this be sound as a moral rule, it justifies the false oath, precisely as it justifies the plea of "not guilty," and therefore the solemnity