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PROPOSED CHANGES IN THE CRIMINAL LAW.

We learn from Ottawa that "Mr. McCarthy introduced a bill to amend the Act respecting procedure in criminal cases. He said it provided that persons charged with misdemeanour should be permitted to give evidence on their own behalf. It also provided that when a judge was delayed from attending Court from any cause, the Court might be adjourned from day to day until he could attend. Thirdly, there is a provision for abolishing the right of the Crown to peremptorily challenge jurors."

Two of these three provisions involve alterations in the criminal law, of considerable magnitude; and their suggestion indicates rather the restless love of change, than any very profound conviction of their necessity. The object of testimony is to furnish, as to an alleged fact, evidence on which the Court or jury can safely rely. It is obvious, apart from the lessons of experience, that what people say as to matters in which they are interested is open to suspicion. Practice has shown, as a rule, almost universal, that this suspicion is well founded. Here is what Pothier says on the matter, speaking of the judicial oath administered by the judge for the decision of the suit.

"Je ne conseillerais pas néanmoins aux juges d'user souvent de cette précaution qui ne sert qu'à donner occasion à une infinité de parjures. Quand un homme est honnête homme, il n'a pas besoin d'être retenu par la religion du serment, pour ne pas demander ce qui ne lui est pas due, et pour ne pas disconvenir de ce qu'il doit; et quand il n'est pas honnête homme il n'a aucune crainte de se parjurer. Depuis plus de quarante ans que je fais ma profession, j'ai vu une infinité de fois déférer le serment, et je n'ai pas vu arriver plus de deux fois, qu'une partie ait été retenue par la religion du serment, de persister dans ce qu'elle avait soutenu."

Occasional utterances of the judges in England, under the extended rules of evidence now in force there, seem to recognize that the experience of to-day in England does not differ from that of Pothier in France a hundred years ago.

Under the old usury laws we had examples without end of how little the sanctity of an oath weighed against material interest.

Manifestly the accused who does not intend to plead guilty, will be compelled to offer his testimony, or he is sure to be found guilty, if there is any evidence at all against him. If guilty he will perjure himself in self-defence, and he may do this successfully, if he be clever and self-possessed; and thus one crime will be committed to cover another. If he be innocent, naturally he will speak to avoid the damaging presumption of guilt arising from a voluntary silence. Speaking, if he be stupid and timid, his embarrassment and confusion will be apt to create perfectly legitimate presumptions of guilt, and he may be condemned because he has not skill to avail himself of a pretended privilege.

It is unnecessary to enlarge on the general objections to such a measure, for the reasons against it are well-known.

Mr. McCarthy has not the demerit of inventing this crudity. But the form in which it is presented requires some explanation. Why is a man accused of a misdemeanour to be allowed to tell his own story under oath, and a man accused of a felony to have his mouth closed? Mr. McCarthy will, perhaps, let us know the principle on which he bases this distinction, which at first sight appears to be arbitrary and unreasonable.

A judge being delayed for a whole day going to hold a criminal court, seems to be a very improbable contingency, and if it did happen one would suppose that the common law would supply the remedy common-sense suggests. But if there be laggards, who are also sticklers, by all means let a statute lay down the rule, and, if possible, let it be laid down in comprehensible terms.

The third of the proposed changes attributed to Mr. McCarthy is evidently a reporter's mistake. Mr. McCarthy cannot fail to know that the Crown cannot challenge jurors save for cause. It is probable that our reformer desires to deprive the Crown of the right to cause a juror to stand aside till the panel is exhausted. The practical inconveniences of an amendment of this sort are too numerous and minute to be easily explained to those who have not had personal experience of Crown business; but one