

inquiry. Some witnesses will adopt anything that is put to them, whilst others scrupulously weigh every answer. Moreover, innumerable questions are put for a merely formal purpose, the facts not really being in dispute, or simply in order to lead the mind of the witness to the real point of inquiry. As a great saving of time is effected by leading a witness, it would be extremely undesirable to stop it where it is otherwise unobjectionable. A question is objectionable as leading when it suggests the *answer*, not when it merely directs the attention of the witness to the *subject* respecting which he is questioned. It should never be forgotten that "leading" is a relative, not an absolute term. There is no such thing as "leading" in the abstract. The identical words which would be leading of the grossest kind in one case or state of facts, would be not only unobjectionable, but the very fittest mode of interrogation in another. On all matters which are merely introductory, and form no part of the substance of the inquiry, it is both allowable and proper for a party to lead his own witnesses, as otherwise much time would be wasted to no purpose; and although the not leading one's own witness when allowable is by no means so bad a fault as leading improperly, still it is a fault; for it wastes the time of the Court, has a tendency to confuse the witness, and betrays a want of expertness in the advocate.

Very unfounded objections are constantly taken on the ground that the questions objected to are leading questions. Lord Ellenborough, in a reported case, said: "I wish that objections to questions as leading might be a little better considered before they are made. It is necessary, to a certain extent, to lead the mind of the witness to the subject of inquiry. If questions are asked, to which the answer 'Yes' or 'No' would be conclusive, they would certainly be objectionable, but in general no objections are more frivolous than those which are made to questions as leading ones." (*Nicholls v. Dowding*, 1 Stark, 81.) What Lord Ellenborough thus said in 1815 is equally true in 1891.—*Law Gazette*.

---

EVADING THE LAW.—Queen Elizabeth, in one of her trenchant speeches, roundly rated the lawyers for standing more upon form than matter, more upon syllables than the sense of the law. Had the subjects of the royal censure dared to answer her outspoken Majesty, they might have retorted that all manner of men, if it suited their interest, were apt to do the like, and hold by the letter rather than the spirit. When Pope Innocent put England under an interdict, condemning its fertile fields to barrenness, the people might have starved but for some beneficent hair-splitters opportunely discovering that the interdict could only affect land under tillage at the time of its imposition, and therefore that crops might be raised upon the waste lands, commons, and fields hitherto unploughed. Necessity begets casuistry. The old knight whose sacrilegious deeds earned him many an unheeded anathema, as he lay waiting the coming of death, remembered that he was an excommunicated man, sentenced to be damned, whether buried within the church or without the church. Although the contumacious reprobate had never found himself much the worse for ecclesiastical