

barriers against chance and error will have been levelled not only so far as the individual prisoner is concerned, but also for all men who may afterwards stand in a similar case, however unjust the injury may be to them. It is not the individual, it is the class that is being defended in a criminal court. Whatever the advocate may think of himself, he is Liberty's instrument for no momentary use. She demands a sterner service than a good-humoured or even a conscientious scorn of distinctions, of technicalities, or of precedent. But we shall in a moment examine the question of precedent and technicality more fully in connexion with the Civil Law.

In Civil Law the first point generally selected for censure is the fact that a lawyer seems ready to defend one side of a case to-day, and exactly the opposite to-morrow. The public appears to suppose that in such an event the principles that were once invoked are subsequently contradicted. A little consideration of the matter will shew that this is not the case. An advocate is concerned not with persons but with their rights. Now the number of rights which a man may have in even the simplest controversy may be many. Nor does the possession of rights on his part necessarily prevent the possession of rights on the part of his adversary. A litigation is in most cases a matter of balance. All life has its "ifs" and its "buts;" and, in the courts, an absolutely clear and indisputable right upon one side only is practically unknown. Such cases need never go to court, and are kept out of it by a simple knowledge, and not by any application, of the law.

But the cases that are fought are obviously those wherein there is some tangle to be straightened out, something to be said for both sides. Either there is an element of uncertainty owing to the fact that the particular state of affairs in dispute has not been sufficiently pre-examined in the light of fundamental rules; or else the right of each party can be opposed by a counter right on the part of the other, due to some carelessness on one or both sides, carelessness of a man's own rights or disregard. These, then, are questions of more or less. It will be the