PROLIX JUDGMENTS.

We quoted last week the words of Chief Justice Sharswood with reference to opinions unnecessarily spun out. We now find the same point noticed in another quarter of the world, the English *Law Times* having the following remarks on the subject:

"Public attention cannot be too often or too pointedly drawn to the serious consequences which may, and often do, result from the too diffuse judgments of learned judges. How frequently does one hear, when the words of some learned judge are cited, that it was "only a dictum," or was not "necessary for the judgment," and therefore is not to be regarded as binding or to be taken into consideration in deciding the question at issue. A very remarkable instance of this has lately occurred. In the case of *Bradley* v. *Baylis*, 8 Q. B. Div. at p. 236, Lord Justice Brett is reported to have said: "But supposing during the qualifying year one of those lodgers leaves, and the owner thereupon (as he assuredly must) resumes the control over that unlet part; according to my view of the statutes, immediately by that act of his those people left in the house, who have been householders, become lodgers again." The question for decision in that case was whether or not the appellant "separately occupied a part of the dwelling house" within the meaning of the Parliamentary and Municipal Registration Act, 1878, and the Representation of the People Act, 1867, so as to entitle him to a vote. The case did not raise the point referred to by Lord Justice Brett in his judgment. During the recent revisions of the lists of voters considerable stress has been laid upon the judgment of Lord Justice Brett, and many objections have been made to the claims of occupiers on the ground that during the qualifying year, in consequence of some one room becoming vacant, the landlord has exercised such a control over the house as is referred to by the Lord Justice in his judgment. In one instance the objectors, not satisfied with the decision of the revising barrister, appealed to the court above (*Ancketell* v. *Baylis*, Dec. 1), with the result that the objection was overruled, and the court held that the part of the judgment of Lord Justice Brett which was relied upon was not binding upon them, as it was not necessary for the decision of the question before the Court of Appeal. Similar instances might be indefinitely multiplied, all arising from what we venture to think is a great mistake, namely, too great diffuseness on the part of learned judges in delivering their judgments. Whatever appears in a reported judgment of a learned judge is certain to be adopted and acted upon sooner or later; and it is a result which can only be deprecated and deplored when action is taken upon *dicta* to which sufficient consideration and attention may not have been given, or which, in cases where more than one judge is sitting, would not have been indorsed by the majority of the court had they constituted an opinion on the essence of the case. So long, however, as judgments are delivered which deal with assumptions and facts outside those before the court for decision, so long will general complaint be made, and that not without great and sufficient reason."

Of course, it must be borne in mind that there are cases where the opinion is necessarily extended to some length, *e. g.*, where a review of previous decisions is called for, and is of great value in explaining the judgment. The criticism of the *Law Times* is directed chiefly against the expression of opinions on points outside of the record.

NECESSARIES.

In *Conant* v. *Burnham*, Supreme Court of Massachusetts, November, 1882, it was held that the services of an attorney in prosecuting the husband upon a charge of assault and battery preferred by the wife, are not necessaries for which she can charge him; for it is the duty of magistrates to prosecute such charges upon complaint made to them, and it is presumed they will do that duty. The court said: "There may be occasions when such services are absolutely essential for the relief of a wife's physical or mental distress. Suing out a writ of *habeas corpus* to deliver herself from unjust or illegal imprisonment, or to regain possession of her child, might under peculiar circumstances furnish illustrations of a strong necessity. Another illustration may be found in the circumstances of the present case. The husband had committed an assault and battery upon his wife, and had instituted against her a criminal prosecution, which, from her final acquittal,