

JUDGES OF THE ENGLISH APPELLATE COURTS—CROSS-EXAMINATION TO CREDIT.

ites of the profession. With the bar his popularity could not stand higher. No one who has ever practised before him, whether as a leader or a junior, will forget his consistent courtesy and abundant supply of good humour, or will fail to acknowledge that lofty sense of honour with which his lordship has been ever actuated. In losing him from the High Court of Justice, we have the consolation of knowing that a vast harvest of appeals will still bring the bar into continual contact with him. The solicitors and the suitors have been equally proud of his lordship's talent, discretion, courtesy, and impartiality, and all will wish him well in his new career.

Mr. Justice Brett and Baron Amphlett belong to a younger generation of judges; but the former at a very early stage of his judicial life displayed remarkable force of character, coupled with great knowledge of business, and thorough acquaintance with the principles of the law. No one, indeed, has excelled Mr. Justice Brett in knowledge of the general affairs of life, and of everything connected with the trade of the country. Baron Amphlett has ever shown himself a laborious and painstaking judge, and we doubt not that he will render much help in the Court of Appeal.

In finding ourselves able to speak in language so eulogistic of the judges now promoted, we cannot but add our apprehension that the High Court will suffer by the withdrawal of so much of its force. But the effect of removing eminent men from the scene of action is generally to give impulse to the efforts of those that follow them. Experience teaches us that this is as much the case with the judicial bench as it is with the aspirants to fame in political life.—*Law Journal*.

CROSS-EXAMINATION TO CREDIT.

Cross-examination constitutes the fine art department of the profession of counsel. It requires ingenuity, caution, delicacy of touch, perception of truth, knowledge of human nature, mastery of the subject-matter. Like painting, sculpture, poetry, and music, it commands a multi-

tude of critics, but boasts a limited number of experts. Like them, also, it is of necessity attempted by a great number of persons who possess few qualifications for the enterprise which they undertake. Unlike them, it is an art practised on human beings, not on canvas and colours, on plastic matter, on ideas and sounds.

Liberty to cross-examine is, beyond all doubt, essential to the discovery of truth; and the necessity for this liberty being uncontrolled, so long as the inquiry is confined to relevant facts, is universally admitted in this country. What is to be the measure of the right to cross-examine on matter irrelevant to the issue of the cause or prosecution has been and is much debated. Recently the controversy on this point has become more general; it has passed from the rules or customs of Court into the region of literary discussion, and it is approaching the stage of legislative ordinance.

Whenever in this country we see anything like agitation with a view to Parliamentary interference, we may be quite sure that there has been some practical abuse of a right or privilege. Our law in every part abounds with anomalies, but hitherto no serious efforts have ever been made to correct these from regard for abstract justice or logical consistency. We have been content to remove or alleviate grievances developed in actual life. If, then, we find the public voice asking for a check on cross-examination to credit, we conclude that the professors of the art have been blundering to the prejudice of the public sense of what is fair.

We know of no judicial dictum which can be cited as containing the rule as to cross-examination to credit. Mr. Fitzjames Stephen in his "*Digest of the Law of Evidence*" expounds the law with a cold-blooded precision characteristic of codes. "When a witness is cross-examined he may be asked any questions which tend (1) to test his accuracy, veracity, or credibility; or (2) to shake his credit by injuring his character. He may be compelled to answer any such question, however irrelevant it may be to the facts in issue, and however disgraceful the answer may be to himself, except in the case provided for in Article 120—namely, where the answer might expose him to a criminal charge or penalty." It might be con-