

PREFACE.

WHEN the Criminal Evidence Act of 1898 was passed, enabling a prisoner in every case to give evidence, the opponents to the bill protested that the onus on the part of the prosecution to prove their case would be shifted to the prisoner, who would be required henceforward by juries to prove his innocence. There is little doubt that this has come to pass. The question is not, has the Act led to the conviction of the guilty? but has it led to the conviction of any innocent person? Usually it is, of course, a great advantage for the accused to be able to go into the box and tell his own story. But those who think that it is so always, show but a slight knowledge of the practical side of a criminal Court. The appearance, demeanour, and in those cases where the past character of the accused is admissible, all these things count in the eyes of the jury. A man of slow comprehension, cross-examined by an astute counsel, by the very stupidity of his answers, often leaves a damaging impression on the minds of the twelve, and convicts himself. A totally different impression might be created by a nimble liar.

But one thing is certain—juries now expect to see the accused in the witness-box. The judge, too, has the power of commenting, and frequently does comment, on the fact that the prisoner has not come forward in his own interests to protest his innocence—a dangerous risk for an advocate to run.

Opinions doubtless differ, but many, I feel sure, will contend that, if it had been possible to keep Dickman out of the witness-box, the probability is that the jury would have acquitted him, on the ground that the prosecution had failed to satisfy them entirely as to his guilt.