

## THE BETTING QUESTION.

cases, bets more than he can well afford to lose, although it must be allowed that the present law puts a premium on dishonesty? Then again, it is both unfair and illogical to say, (as is said whenever the police find a sporting paper and a greasy note-book in the pocket of an offender), that betting tempts men to embezzle or to thief. Want of money tempts them to do so. Their ill-gotten gains may sometimes be employed in betting; they are doubtless sometimes employed in a worse manner, and it is absurd to think that the number of crimes of this nature is swelled by the practice of betting any more than by the inducements of sloth, of avarice, or of lust.

These so-called objections, then, must fall to the ground. But even supposing there be anything in them and others of a similar nature, which are occasionally urged, we imagine that the force of the few observations we are about to make would not be diminished in the slightest degree. Were we to admit at once that betting is an evil, we should be compelled also to admit that in this country it appears to be a necessary evil. We have already given our reasons for holding this opinion, and if it be correct, and the question be asked how, under the circumstances, should we regard this betting question?—we take the answer to be obvious. We should regard it as we regard the drinking question, and as our French neighbours regard the question of prostitution—not as a subject from which the law should, with mock modest, turn her head, but as one to be by her carefully watched over and regulated. Anybody who has paid the slightest attention to the matter will, we venture to say, grant that all attempts to suppress betting in this country must be futile. But we do not wish to deny that some sort of legal supervision might be advantageously exercised. On the contrary, we are of opinion that it is from the want of it that an evil accrues, with which betting is, in many cases, justly chargeable—though by no means to the extent supposed by some. We mean the prevalence of fraud, cheating or trickery in betting transactions. It was this, and this alone, that was discountenanced by the common law and struck at by the early statutes. Indeed, even now there is nothing illegal in the making or

paying of a bet pure and simple.\* But wagers are now placed altogether without the pale of the law, and no principal in a gaming transaction can sue in the courts of this country in respect of it, whatever the merits of his case may be. It is, we imagine, to this legal prudery—a prudery only incident, it may be noticed, to the old age of the law on this subject—that the prevalence, greater or less, of fraud in these transactions, is chiefly owing. Bring them within the pale of the law, and immediately you strip from them all secrecy, which is the cloak of fraud. The press would have its eye on them—public opinion would be in a position to operate on them. Surely there would be greater hope of reclaiming the lax notions of morality unfortunately entertained by some of those who are in the habit of betting, if the law were to say, "Where a man is bound in honour and conscience, God forbid that a court of law should say the contrary. . . Honour and conscience ought to bind every man in point of law,"\* than if it were to continue to hold the language it now holds:—"You have made a bet—which is wrong; you have lost that bet—which is more wrong; but now you refuse to pay that bet—which is most wrong—and you shall have the protection of the law;" for to refuse to give a remedy to a creditor is of course to protect the debtor. It is not the way, we take it, to discourage a thief, to turn your head away and tell him that you will take no notice whatever of his nefarious practices.

We would suggest, then, upon the whole, that seeing that Englishmen will bet, supervision, and not suppression, of gaming transactions should be attempted by our legislature. Betting-houses and betting-agents might be allowed to exist here (under checks and safeguards as strict as may be deemed expedient), rather than driven to establish themselves (without any checks or safeguards at all, as they do now) elsewhere. And

\* *Johnson v. Lansley*, 12 C. B., 468, and see the other cases quoted by Sir R. Palmer, *arguendo*, in *Bubb v. Yelverton*, sup.; *Rosewarne v. Billing*, 33 L.J., C.P. 55; *Bubb v. Yelverton*, (Lord Charles Kerr's claim), 24 Law Rep. 822.

\* Per Bathurst, J., *Turner v. Vaughan*, 2 Wils. 539.