

THE CHARITABLE SPIRIT OF THE LAW—MARRIAGE AND DIVORCE.

contrary, the law presumes that every man brought up in a Christian land believes in God and fears Him. The charity of its judgment is extended alike to all.

Neither does the law presume that any man is a hypocrite, but it presumes that he is what he professes to be, whether atheist or believer." In which respect our law contrasts favourably with the Civil law, which laid it down, that though, as a rule, in the case of crime no one should be condemned from mere suspicion, however strong, yet that where a man is suspected of heresy there is an exception, and he is condemned, *nisi omnem suspicionem excusaverit*: Best, Ev. p. 53. And (2) the maxim *Nemo præsumitur esse immemor sue æternæ salutis, et maxime in articulo mortis* (6 Co. 76, a.), which may be one of the grounds on which dying declarations are, in cases of homicide, admitted, notwithstanding the general rule against the admittance of hearsay evidence. For this may seem to rest, in part at least, on a view of human nature endorsed by Shakespeare, where he says:—

Satis: May this be possible? May this be true?
Melum: Have I not hideous death within my view,
 Retaining but a quantity of life
 Which bleeds away, even as a form of wax
 Resolveth from his figure 'gainst the fire?
 What in the world should make me new deceive,
 Since I must lose the use of all deceit?
 Why should I then be false, since it is true
 That I must die here, or live hence by truth.
King John.—Act v., Sc. iv.

At the same time the care with which the reception of dying declarations is guarded, is itself no doubt prompted by consideration of the weakness of human nature: Taylor, Ev. 606 sq.

Such, then, are a few examples of the charitable and merciful spirit which seems to pervade English law. In them has been traced, however superficially, one of the principles of conduct which the practical experience of mankind, as re-

corded in the law books, has shown most conducive to the wise conduct of human affairs. "Human Life," says Sir W. Erle, (Law of Trades' Unions; Introd.) "is a progress between two sets of physical and moral agencies perpetually striving against each other, the one on the side of falsehood, malice, and destruction; the other on the side of truth, *kindness*, and health: and the law, if wisely made and properly administered, maintains truth and *kindness* and health, and so among other things helps persons of honest industry to obey each his own will."

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MARRIAGE AND DIVORCE.

[Communicated.]

As this subject has recently occupied a good deal of the attention of the public, perhaps some extracts taken from statistics and evidence, furnished to the British Parliament previous to the institution of the Divorce Court, may prove of interest.

Matrimony may be viewed either in a canonical light; or, as a legal bond or contract.

The sources of the law, administered in matrimonial cases, were pointed out in a leading case, determined in the House of Lords, by Lord Chief Justice Tindal. He says: "The Law by which 'the Spiritual Courts of this Kingdom' have from the earliest time been governed and regulated, is not the general 'Canon Law of Europe, imported as a 'body of Law into this kingdom and 'governing those Courts, *proprio vigore*, 'but instead thereof, an Ecclesiastical 'Law, of which the general Canon Law 'is no doubt the basis, but which has 'been modified and allowed from time 'to time by the Ecclesiastical Constitu- 'tions of our Archbishops and Bishops,