11, p. 460), he speaks of the present fashion of tinkering the laws of real property, preserving untouched the ancient rules, but "annually plucking off, by parliamentary enactments, the fruits which such rules must, until eradicated, necessarily produce."

Even the Judicature Act has received its metaphorical adornments. Thus last year, in the Court of Appeal, at Lincoln's Inn, in the course of a case involving the doctrine of a wife's equity to a settlement, Lord Justice Bramwell said: "There's no such thing as an equity since the Judicature Acts came into operation—is there?" Counsel ventured to suggest that it was rather law than equity which had been abolished. "It's like shot silk," observed Lord Justice James, "both colours are there, and it depends upon the light in which you look at it which colour you see."

As an illustration of the reverse process, that is, of illustrating general subjects, by metaphors borrowed from the law, may be mentioned Sir Fitzjames Stephen's remark in his note on Utilitarianism in his "Liberty, Equality and Fraternity," where he says that "to suppose that Christian morals can ever survive the downfall of the great Christian doctrine of a future state of rewards and punishments, is as absurd as to suppose that a yearly tenant will feel towards his property like a tenant in fee simple. To say that, apart from the question whether there is or is not a future state of rewards and punishments, it is possible to compare the merits of Christian and heathen morality, is as absurd as to maintain that it is possible to say how the occupier of land ought to treat it without reference to the nature and extent of his interest in the land."

F. L.

WITNESSES AND WITNESSES.

It is said that Dugald Stewart had strong Scottish prejudices against trial by jury in civil cases which were converted into admiration by the accident of his hearing an able cross-examination in an English Court on a case of trespass to real property. But his admiration was not so much of the jury system as of the mode in which the truth was elicited for adjudication. Long experience has demonstrated that no means for obtaining truth was comparable to those whereby the parties can be fully examined both on their own behalf and by the adversary, and when the testimony is elicited *viva voce* in open court. These two, *viva voce* evidence and the examination of parties, have been well likened to a pair of powerful implements sharp as two edged swords for the dividing asunder of truth from falsehood.

It is a favourite topic with the lay-press and the lay-public to insist upon the brow-beating of counsel and the badgering of witnesses, but experience demonstrates that witnesses are seldom treated worse than they deserve, and have in most cases to thank themselves for any want of consideration shown to them. Any frequenter of the courts must have observed how unsatisfactory witnesses are in general; how some are utterly unable to answer the simplest question straightforwardly; how others answer one question by asking another; how others ramble from one topic to another and fail to appreciate the particular thing as to which information is sought. All this arises no doubt, in the upright witness, from habits of loose, indefinite thinking, and from the confusion and embarrassment arising from the novelty of his position. But how seldom does one meet with the perfectly upright witness! From the experts of whom Lord