

it is, being derived from many sources, is singularly deficient in that precision and definitiveness which characterise other languages, both ancient and modern; and that, in popular use, the real distinction between words erroneously called "synonyms" is constantly ignored. It cannot be denied that our own language is not well adapted for legal expression. There can be no doubt, however, that in respect of expression and composition, the language of a great portion of the Imperial and Colonial Statute Books is a real source of "*opprobrium*" to our civilization. The needless tautology, involution, complexity, and prolixity in the structure of sentences in many of our Acts, are fair subjects for popular invective and for critical denunciation.

But it is easier to criticise than to construct, easier to see faults than to find remedies for them; and it will be no light task for the Legislature of an age more enlightened and more free from the burnt-in prejudices of old times than ours, to discover a mode of investing the language of the people with such definite and specific meanings, when used in the laws of the country, as shall convey to the general body of the community absolutely precise information capable of application by themselves to their own rights and duties.

It is no doubt a most desirable object, as Bentham as indicated (vol. iii. p. 207), that the style of a law should be such, that at every moment in which it ought to influence the conduct of a citizen, he may have presented to his mind an exact idea of the will of the Legislature. And since it may be true, as the same learned writer says, that "life, liberty, property, honour, everything which is dear to us, depends upon the choice of words," he may well add, that "the words of the law ought to be weighed like diamonds."

In his "practical directions" for a true style in laws, intended to insure force, harmony, and nobleness of expression, he gives four practical directions, to which it may be well to allude in passing. They are—1st. To avoid, as far as possible, putting into the laws other legal terms than those which are familiar to the people. 2nd. When it is necessary to employ technical terms, to define them in the body of the laws. 3rd. To use for the terms of such definitions common and known words, or at least to provide that a chain of definitions, more or less known, should always finish by a link formed of such words. 4th. That the same ideas should be conveyed by the same words, and that none but a single and the same word should be employed for expressing a single and the same idea.\*

Whether, therefore, ordinary words or terms of art are to be used, it is necessary that their sense should be definitely ascertained. Mr. Livingstone, in preparing the Louisiana Penal Code—one of the most able and successful attempts which have been made at codification of an important branch of law—adopted the system of annexing a book of definitions, and enacting that words occurring in the code, and printed in a specified type, should be interpreted according to the definition in that book. And it would appear desirable that in consolidating our statute law, the fullest advantage should be taken of the General Interpretation Act, and that special interpretation clauses, where necessary, should be introduced into the Consolidating Act, framed with a due regard to ascertained principles.

I come now to the consideration of the question how the work of consolidation and amendment can be most effectually carried out.

I think, in the end, it will be found most convenient, if not necessary, to establish a permanent Commission (to the constitution of which I shall presently advert), for the purpose of carrying out the primary consolidation desired, and for keeping up a system tending to preserve uniformity and facility of access in new laws to be incorporated with or added to the existing Statute Book in each successive Session of the Legislature.

I am of opinion, however, that it would be wise, before the establishment of such an institution, to make some tentative experiments, by which the best practical mode of carrying out principles previously determined upon could be tested.

Supposing a particular branch or head of law to be selected as especially and most urgently requiring legislation, the first operations of search, collation, collocation, and fusion of re-arrangement and amendment of expression, ought to be intrusted to one mind.

This work, as Mr. Fitzjames Stephen has said in an essay on the subject, is a work of art, and must be done by one person, as much as the painting of a picture. The draftsman, however, would have to report on the materials he had used, the way he had dealt with them, and the alteration by suppression, addition, or amendment of language which he suggested, and would further make suggestions as to amendments in substance, expressed in language suitable for introduction into the Act.

The draft, with the reports, ought then to be submitted to at least two separate competent persons for minute examination and criticism, and to be returned to the draftsman with notes and reports. The draftsman should then introduce such additions, or make such alterations, suggested by the examiners, as he assents to, or reports afresh; and in the end the draft, with previous reports, should be submitted to the Government and its legal advisers, and a Bill framed thereon (either with or without the previous reports) should be circulated among the members of the Legislature, and those classes of the community which are most interested in the subject, before it should be finally introduced.

Facilities should be given for conference between the draftsman and examiners, and between both and the law officers of the Government.

When the time should have come for appointing a permanent Commission, it would seem that it ought to include (say) two Ministers, all the Judges, and the law officers of the colony, and (say) three competent professional draftsmen—two, probably, being practising lawyers—with necessary clerical assistance. By proper subdivision of subjects and selection of Committees out of the members of the Commission, the work might be effectually done in a moderate time. I would, however, recommend an initiatory experiment, such as I shall presently propose, and in which I shall be glad to offer personal assistance.

Before I proceed to that particular matter, I must say a few words upon the second proposed object of Law Reform, namely, the simplification of procedure, and the reduction of the cost, and increase in the despatch of the business of the Supreme Court.

\* NOTE.—Montesquieu says that the style of a law ought to be concise, simple, and direct, and that its words should awake the same ideas in the minds of all men.