

characters; and that judges, whether weak or strong, may be allowed equally to discharge their duties without the fear of offending popular writers or popular newspaper publishers.

Such was, in effect, the language of the the celebrated Lord Chancellor Hardwicke, nearly a century since (see 1 Salk., 469), and such is in effect, the language of many eminent judges of more recent times. The present Lord Chancellor, when Vice-Chancellor Wood adjudged the publisher of the *Pall Mall Gazette* guilty of a gross contempt of court, for thus commenting upon affidavits filed in a suit, "many of these are important enough if the deponents can endure cross-examination in the witness box; many are obviously false, absurd and worthless." *Tichborne v. Tichborne*, 17 L. T. N. S. 5. Still later, Vice-Chancellor Malins was equally mindful of the duty which he owed to himself, to the bench, and to the public, by subjecting the proprietor of a local newspaper to costs for animadverting upon the parties to a winding up petition then before the court, and intimated that if process of contempt were asked he would most certainly have granted it: *Re The Cheltenham and Swansea Railway Carriage and Waggon Company, limited*, 20 L. T. N. S. 169. In doing so he said, "whenever it happens that a newspaper, whether on its own motion or at the instigation of others, publishes proceedings in a cause, it does prejudice the cause of justice." Motions of this kind are of late very frequent in England. Vice-Chancellor Malins, in the last reported case of the kind, *Robson v. Dodds*, 20 L. T. N. S. 941, said that three or four had occurred before him in a recent period. This learned judge, while alive to the great benefits of a free Press, is no less alive to the necessity of a pure administration of justice. He, in the case to which we have last referred, made an order for the committal of a newspaper publisher who had published an article which was calculated to create a prejudice against one of the parties to a pending suit, and to cast opprobrium upon his solicitor. It is true that he spoke of motions of the kind as of a very embarrassing character, but his firmness in disposing of them is deserving of all praise. No one better appreciates the mission of the Press than this learned judge, but no one less shrinks from the discharge of his duty when it becomes his duty to censure the Press. He is reported in the last mentioned case to have used this

manly language, "on the one hand, it is of the highest importance to the public that the Press should be as much as possible unrestricted, a freedom which gives life and vigour to newspaper articles; and it is equally clear that no such comments should be permitted as are calculated to impede the course of justice." Vice-Chancellor James still more recently held a Court near Guildford at which the printer and publisher of a local paper, called the *Poole Pilot*, was called upon to show cause why he should not be committed for contempt of Court for having published an article vindicating in strong terms the claims of a party to a suit pending in Court as to the Tichborne title and estates. Dr. Tristram appeared for the newspaper publisher, and put in an affidavit expressing the deep regret of the publisher for having published the article. The learned counsel by way of excusing his client, said that the strong remarks against the present claimant, which had appeared in other newspapers, had led his client to believe that he had a right to comment on the case. The Vice-Chancellor said, that the press "has no right to comment upon or interfere with a pending suit," that a gross contempt of court had been committed, and at first he was strongly inclined to send the newspaper publisher to prison, but as the latter had expressed his regret he, the learned Vice-Chancellor, would order him to pay the costs of the application. The Vice-Chancellor further intimated, that "in all future cases the full punitive power vested in the Court would be exercised" (*The Law Times*, August 21, 1869, p. 316).

It is to be hoped that we have sufficiently directed attention to the abuse of which we complain, in order to prevent a repetition of it. Most of our newspaper writers are not only men of ability but men of good sense. With such men it is not necessary to do more than point out a legal transgression, in order to remove it. They fearlessly point out what they conceive to be wrong in the conduct of others, and must not complain if others ask them to take "the beam out of their own eye." The misconduct of which we complain is not, we are sure, wilful. It is rather the result of ignorance of the rules of law that govern the conduct of newspaper writers in relation to pending proceedings in courts of justice. But good sense and good taste alike point it out as an abuse, and while