

*HISTORIC COLLISIONS BETWEEN BENCH AND BAR.*

"Good feeling," says Mr. Oswald in his work on "Contempt of Court," "nearly always exists between the bench and bar, and when it is interrupted the reason for it may generally be found to exist on both sides. There is scarcely any instance upon record in the superior courts of a conflict between the bench and bar becoming so acute as to lead to the committal of an advocate for contempt while conducting his client's cause. Even Chief Justice Jeffreys (who is said to have browbeaten and sometimes threatened counsel) does not appear to have put in force the power of committal against counsel. And during the progress of the once celebrated *Reg v. Castro*, or Tichborne case (which in its hearing occupied the time of the court for a longer period than any other trial on record, except that of Warren Hastings), although there were frequent conflicts between bench and the advocate for the "claimant," and several reminders to him by the judges of the weapon with which the law armed them, the court never went to the length of depriving the client of the services of his advocate. The natural disinclination of the court to interfere with counsel in such a way as to take his services from his client ought to form a strong reason for counsel not assuming too great a license." This passage may be taken as a good, short exposition of the true position, and of a correct appreciation of what the proper relations should be.

It is difficult to find a clear case of a barrister being punished for contempt while actually pleading for his client in court. *Re Pater* is, however, such a case (12 W.R. 823). Of two other cases cited by Mr. Oswald, where both persons committed were litigants, and apparently solicitors, *Carus Wilson's case* (7 Q.B. 984) may be, for the present purposes, worth looking at; in the other (*Reg. v. Jordan*, 36 W.R. 589), Mr. Justice Cave said that the observation, "That is a most unjust remark," however said, is a gross insult to any court of justice, and if not withdrawn amounts to a contempt. *Re Pater* does not help us much. Mr. Pater, a barrister practising at the Middlesex Sessions in 1864, feeling himself aggrieved by certain interruptions on the part of the foreman of the jury, remarked in his speech for the defence, "I thank God there is more than one juryman to determine whether the prisoner stole the property, for, if there were only one, and that one the foreman, from what has transpired to-day, there is no doubt what the result would be." For this he was ultimately fined £20. On appeal to the Queen's Bench Chief