

like the Canadian Pacific Railway Company to set up. Why don't you fight it out on the merits, and seek to prove that you were not guilty of negligence." To which the counsel is said to have retorted: "Apparently I am not on the popular side of this motion," which elicited from His Lordship the remark: "You are not on the honest side."

If the above report be correct, and it is printed in inverted commas, one is led naturally to consider whether judges are appointed to decide questions of morals or points of law. With due respect to the learned chief justice, I would venture to suggest that as the company had a perfect right under the statute to raise this defence, it was not his province to discuss it from a purely moral or ethical standpoint. The company had the right to make this defence, and whether it was meritorious under the circumstances was not in question. If the judge thought such an enactment was undesirable it would be quite proper for him to make a suggestion to that effect in the proper quarter, or he might descend from the Bench and seek a repeal of the provision on the floor of the House of Assembly. But the real harmfulness of such a remark is, perhaps, made apparent by what seems to underlie the retort of the counsel. If it all means that the din of popular clamour against rich corporations, unconsciously of course, could affect the judicial mind, it is something to be guarded against. There is too much attention paid in these days to popular clamour. "Vox populi" is not "vox Dei."

ONLOOKER.

[Our readers can form an opinion of this matter as well as we can. We therefore make no comment, except to say that possibly our valued correspondent makes too much of the matter; and further, that, as to that part of the letter which takes exception to judges seeking to take the place of legislators and over-riding Acts of Parliament by judge-made laws to meet hard cases (which is, I presume, what our correspondent means), we would refer to the weighty words of Mr. Justice Meredith, J.A., in the case of *Johnston v. Dominion of Canada Guarantee and Accident Ins. Co.* (post infra). They are much in point.—
EDITOR, C.L.J.]