

The questions put by our correspondent open up rather a wide field for debate.

Were we to ask the opinions of the several Judges in the Province on these points, no two of them might possibly exactly agree.

In the Division Court a good deal of "natural justice" must necessarily be administered, and a judge is justified in his endeavour to deal equitably with each particular case, so long as he does not override the well-known laws of the land, as laid down either by statute or by decisions of the higher courts.

It is well established that there is now no imprisonment for debt in this Province; and where a judgment debtor has been committed to gaol, under the provisions of sec. 240 of the D.C. Act, such commitment is not (in theory at least) for non-payment of money ordered to be paid, but for fraud, for contempt in disobeying the process of the Court, or for disobedience to the order of the Court when it was in his power to comply with the order.

While a Judge sitting in a criminal court and having passed the sentence of the law has no power to remit or alter a sentence duly recorded, at least after the sittings of that particular court have closed; yet, while sitting in that court he has power to remit any imprisonment ordered for contempt, and *a fortiori* he has the power after the defendant has purged himself of such contempt.

We do not look at the imprisonment of a judgment debtor to be something done at the instance of or for the benefit of the particular creditor who may happen to put the law in motion, any more than a prosecution for felony is undertaken on behalf of the person upon or towards whom the act involving the felony has been committed. Were it so, it is quite possible that the criminal prosecution might be a bar to any civil remedy on the part of the injured person.

When the executive is called upon to extend the clemency of the crown towards a convicted criminal, it is not thought necessary to give the whilom prosecutor an opportunity of showing cause to the contrary. The crime was one against "the peace of the Queen, her crown and dignity."

On the same principle it might be argued that when it is considered that the commitment of a judgment debtor under the circumstances mentioned is not intended to be for the benefit of his creditor (though indeed it often turns out to be so), there is no reason why the creditor should have notice of an application to remit the sentence of imprisonment. On the other hand, the circumstances of the case may be such as to raise a suspicion that the application was not of a *bona fide* character, or that the statements upon which it was based were of questionable veracity, or that an order would be in some way unfair to the creditor. In cases like these the Judge might well refuse to act without having all parties before him.

It is well known that in many cases of imprisonment for contempt, the persons committed have languished in prison for most unreasonable periods. To prevent such a thing happening in any of our Division Courts, the power of the Judge is limited as to the period of commitment, and a further enactment has also been passed for the benefit of judgment debtors. This section is really as much, or more so, for the creditor's benefit as for his debtor's, for it holds