

## FLOTSAM AND JETSAM.

know whether he could say something. I told him, certainly—that if he had anything to tell us that had not already been stated, he was at liberty to mention it to the jury now. He then, in a very simple and artless way, told his story, which was evidently the basis of his instructions to counsel; but there was this important difference—that he frankly admitted an important and apparently damaging fact that had been conclusively established by the prosecution, but strenuously disputed by his counsel. But he told the whole story in such an artless fashion, and with slightly altered circumstances, that he threw an entirely new and unexpected light over the whole affair, and evidently deeply impressed the jury as well as others. Certain of the witnesses were recalled at the instance of the jury, and interrogated respecting the new aspect of the question, with the result that the prisoner, who before his statement stood in decided peril of conviction, was immediately acquitted.

The recent discussion upon this subject seems to have brought to light the fact that it certainly has not been the general practice, when a prisoner has been defended by counsel, for him to be allowed to state without proof, through the mouth of counsel, any facts he may think fit to instruct his counsel to state and the latter may consider it prudent to repeat.

It seems to me almost impossible to dispute that it is and ought to be the right of the prisoner, even when he is defended by counsel, to offer without proof any explanatory statement of his own; and for my own part nothing short of an Act of Parliament will ever induce me to deprive a prisoner of this right whenever he demands it, whether before or after his counsel's speech, or after the summing-up of the judge or even the deliberations of the jury.

I am, your obedient servant,

Beddegliert, Dec. 27.

WATKIN WILLIAMS.

The following reply appeared in the same journal:—

Sir,—In his letter to you Mr. Justice Williams says a prisoner "is not permitted by law to give evidence, and it would be most unjust and even inhuman to restrict him in giving his explanation." With submission to his lordship, there seems some confusion here. If "explanation" means explanation of the facts already in evidence with no addition to them, nobody has ever doubted the right of a prisoner to give such explanation. If "explanation" includes placing additional facts before a

jury, as thus, "I explain my knocking down the prosecutor by saying he first knocked me down," then it would be as well to call the thing by its right name. What his lordship really means is this. The prisoner ought to be allowed to state things he cannot prove. What is this but to give evidence, which, however, his lordship expressly says the prisoner himself is not "permitted by law to do." What the prisoner says, his explanation as his lordship calls it, is to influence the jury, or it is not. In the latter case it is idle. If it is to influence it is by the alleged existence of new facts. The result is, the jury will have before them evidence on oath, and which has, or might have been, cross-examined too, and evidence not on oath, and without the wholesome check of cross-examination. His lordship says that nothing but an Act of Parliament will induce him to deprive a prisoner of the right when he demands it. Nothing but an Act of Parliament ought to induce a judge to deprive a man of a right which would otherwise exist. But does this right exist? I say No, and there is no precedent or authority for it, no better reason for it than this—that because a man is not permitted to give evidence with the ordinary securities for its truth, he must be permitted to give it with no security. There is a fine high tone in his lordship's letter; but I would humbly suggest he should take the opinion of the Court of Criminal Appeal as to whether he is right.

Your obedient servant,

B.

### HAMILTON LAW ASSOCIATION.

THE Annual meeting of the Hamilton Law Association was held on the 28th instant. This Association is now a large and influential body consisting of some sixty members, including those who have joined during the past year. The Library was reported to contain some 1,300 volumes. The following officers were re-elected: Messrs. Irving, Q.C., President; Thos. Robertson, Q.C., Vice-President; A. Bruce, Treasurer; R. R. Waddell, Secretary. The following gentlemen were elected Trustees: Messrs. F. MacKelcan, Q.C., E. Martin, Q.C., G. M. Barton, J. W. Jones and J. V. Teetzel.