

## Correspondence.

## A WRONG WITHOUT A REMEDY.

*To the Editor of the Canada Law Journal.*

SIR,—Judging by the report of the case of the *Pictou Iron Foundry Co. v. Archibald*, appearing in the August number of the JOURNAL, it would seem that the maxim “no wrong without a remedy,” does not always hold good in Nova Scotia. The defendant made a contract with A for the construction of a boiler, and another with B to complete an engine for his steamer. Both A and B failed to complete their contracts, and the full court seems to have held that defendant could not recover damages from either, because even if one had fulfilled his contract, defendant would not have been able to engage in the business for which the steamer was intended, and to earn profits, because of the failure of the other to complete his contract. This is a most extraordinary result, and seems to leave the door open for any amount of neglect and carelessness on the part of contractors, provided only that there is some other contractor equally negligent and careless at the same time.

It is true that, even if A had completed his work in time, the defendant could not have used his steamer on account of the default of B, but then he might have recovered damages against B, so that it might fairly be said that by reason of A's default the defendant suffered damages in the actual circumstances of the case, viz.: that he lost his right to recover damages against B for the latter's neglect.

Similarly in an action against B for damages, he might fairly claim that if B had completed his work in time he might have recovered damages against A for his default.

A difficulty might arise, of course, in case the defendant had sued both A and B for damages. The Court would naturally hesitate to allow him a double recovery, but an astute judge would readily discover some way of preventing injustice by ordering a stay of proceedings, on terms of the parties equitably adjusting the various matters between them. I would like to see this case carried to the Supreme Court, as it leaves the law on the point involved in a most unsatisfactory position.

BARRISTER.

Winnipeg, Sept. 4th.