

PROFESSIONAL ETIQUETTE.

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The Tichborne case seems likely to be a *cause célèbre* in more ways than one.

Besides the importance of the stake, the romantic character of the claimant's story, and the immense time taken up by the trial, there was in the evidence adduced a succession of surprises, enough in themselves even without the startling and unexpected *denouement*, to render the case a memorable and notorious one.

We are sorry, however, to see that startling episodes were not confined to the evidence, but occurred even in the speeches of counsel. To us in Canada, with our colonial reverence for the Bench and Bar of the mother country, the Attorney-General's speech has been in many ways a surprise, and in some respects a most unpleasant one.

We can remember the amusement with which from a professional point of view we witnessed Mr. Pickwick's astonishment and horror when Mr. Serjeant Buzfuz, counsel for the plaintiff in *Bardell v. Pickwick*, presumed to tell the defendant's counsel, Mr. Serjeant Snubbin, that it was a fine morning: but had the leaders of the Bar in Mr. Pickwick's time been what at present they seem to be, he would scarcely, we think, have been startled by any such interchange of civilities between opposing counsel.

The Attorney-General seems to have made his client's cause his own in the strictest sense of the word, identifying himself with it so completely as altogether to ignore the fact that, upon every principle of law and reason, the matter, while *sub judice*, must be considered as undecided.

Assuming from the first that the claimant was an impostor, he did not hesitate to denounce him in the most unmeasured terms as the leading spirit of a vile and gigantic conspiracy; and although, from what has since transpired, the Attorney General does not seem to have been far astray in this, he certainly transgressed the bounds of professional etiquette, if not the social canons of ordinary English society, when he included by direct implication in his wholesale denunciation Mr. Serjeant Ballantine and Mr. Giffard, Q.C.

The portion of the Attorney-General's speech to which we refer is thus reported in the *Times* of February 9th:

"The Attorney-General, then resuming his speech, said he was aware that there was no

limit to the possibility of facts, and there might be for all he could tell some triumphant explanation of the two facts which he had had to communicate that morning. He should have thought in any other case but the 'Tichborne case' that the fact of one of the attorneys and his son retiring from it, that the production of a letter written by the plaintiff beginning 'My dear and beloved sister,' addressed by the plaintiff to the sister of Arthur Orton, and signed with a forged address—because it was plain, as it had been read, that the writer never saw the person whom he proposed to introduce till long after he had left Australia—and with a forged date, because the writer had never seen Stephens at all until months after 1866: these facts, in any other than the Tichborne case would be thought conclusive as against the plaintiff; but in this case ordinary rules of action did not seem to apply. The day before, the speaker said he heard that his proof against Roger Tichborne ever having been at Melipilla was in favour of the plaintiff; that it might, indeed, be a slight suggestion in favour of the Orton case, but that as far so the Tichborne case was concerned it was entirely beside the case. Astonishment came upon astonishment day by day, for he had practised for some years in his profession: he had had some practice in cross-examination (a laugh), and although his powers might have been feeble in that respect, as the 'enlightened critic' suggested, yet he never met with a case like this, and he did not know that if he remained in practice for another 22 or 23 years he ever should again. His mind might be clouded by the strange mystery and obscurity in which this case was enveloped, but he should have thought that the demonstration from Roger Tichborne's handwriting that he had never been at Melipilla, or near the place, was some slight evidence that the plaintiff, who said he was there, was a rank, a gross, and an arrant impostor. But it was a mistake; it was a proof in favour of the claimant. (A laugh.) It might be that there was an answer to all these matters, but in any other cause the matters mentioned that morning would have put an end to the case. But this had not followed here. And those who conducted the plaintiff's case in the face of the arguments pressed upon them thus, and in the face of these demonstrations, must not complain if, by and by, it should be pointed out that although it was the duty, the great and sacred duty, of members of the profession to which he belonged to defend by all legitimate arguments any case which might be intrusted to them, and, although no man would stand up more indignantly than he should against the imputation which was sometimes ignorantly cast upon the Bar and