been customary first to obtain a certiorari, and then, upon the return, to obtain an order nisi to quash. *Reg.* v. *Huggins* (1895) 1 Q.B., 563, noted ante vol. 31, p. 264, was relied on by the applicant, but was held not to be applicable, on the ground that there the prosecution was brought for the benefit of a small class of privileged persons, of whom the justice was one, and in the present case the ordinary members of the Society had no control over or responsibility for any prosecution by the Society, and the case was held to be governed by *Allinson* v. *General Council*, &c. (1894) 1 Q.B. 750, noted ante vol. 30, p. 387.

Correspondence.

DECEIT AND ESTOPPEL.

To the Editor of the Canada Law Journal.

SIR,—Will you allow me to point out that your criticism of my article upon "Deceit and Estoppel" is, in no sense, an answer to it. You assert that the authorities are against me. I granted that much, when I wrote that what I alleged was "not usually said." You agree with me in this, and give citations to prove that we are both right. I contend that for an action of deceit a count, framed in negligence, ought to lie. You say "that such is not the law." Granted.

But should it not be the law? Is, or is not, an action of negligence an action for neglect of duty? Practically, you say: "Yes. But there are neglects of duty, for which negligence will not lie." Deceit, you admit, is a breach of duty; some action will lie for it; but not, you think, an action of negligence. Were it not for authorities, too easily accepted and followed, that is a conclusion which, I venture to say, few would arrive at. Why should we have a class of actions based upon breach of duty, and decree that deceit, the gist of which is breach of duty, should be excluded from it? Following Fry, J., you argue that "fraud imports design and purpose; negligence imports that you are acting carelessly and without that design." But is that distinction supportable?