

## CORRESPONDENCE—FLOTSAM AND JETSAM.

legal profession to the expense of an Act of Parliament.

Yours, &c.,  
OSGOODE HALL.

*Several Moot Points.*

TO THE EDITOR OF THE LAW JOURNAL.

SIR:—Permit me to submit for your consideration a "batch of queries."

1. Supposing that on a trial of a case in Division Court a verdict be entered for the plaintiff with leave to the defendant to move to enter a non-suit. Is such an application good if made *fifteen* days after the day of trial, or must it be made within *fourteen* days?

2. Does the right of precedence hold good where A., a barrister, and B., an articulated clerk, appear before the Clerk of the Crown to enter Records; or is the rule, first come first served, to apply? The point arose when entering Records for the Assizes just closed for York, and the poor clerk was ordered to give way.

3. In Country Causes, is a Deputy Clerk of the Crown justified in entering Records before the commission day of assize? The C. L. P. A. merely says they shall be entered before noon that day. How far, if at all, would the principle of Eng. Stat. 15, 16 Vic., cap. 73, apply? True our Judges are not attended by Marshals to receive Records, in the absence of which officer could the Deputy Clerks of the Crown be considered as such? The case of *Hingston v. Whelan*, 8 U. C. L. J., cannot be considered as settling the difficulty.

INOPS CONCILII.

[1. This question is now before one of the Judges of the Superior Court for adjudication.

2. We should hardly think there would be any right of precedence in such a case. A barrister, as such, has nothing to do with entering Records. That is the appropriate work of the attorney or his clerk.

3. We are not aware of any authority to enter such records before Commission day.]

*FLOTSAM AND JETSAM.*

The death of the celebrated Siamese twins has caused the following curious reflections on the part of a lay contemporary: "It is a very fortunate thing that the Siamese twins were law-abiding citizens. Had they not been they would have given the authorities no end of

trouble. In fact, it seems to us that they could have committed all sorts of crime with impunity, had they been so inclined. If Chang had committed an assault, how would it have been possible to have arrested him without arresting Eng also; and had Eng been entirely innocent of all participation in the affair, why should he have been arrested? In order to punish the guilty, it would have been necessary to punish the innocent also; and locking up Chang would have included locking up Eng. We do not see any way out of the dilemma that would have arisen except a temporary one; and that is the confining of Eng as a witness. But when it came to punishing the guilty party, justice would have been nonplussed, for the law does not permit an innocent party to suffer for crimes he had not committed. If Eng, on the other hand, had perpetrated a murder, he could never have been hanged, no matter how strong and conclusive the evidence had been against him. He could not have been imprisoned for life, for in these instances it would have necessitated the death or the life-long confinement of the unoffending Chang, who, having a separate identity, could have obtained a writ of *habeas corpus*, and demanded his liberty. Had one of these twins been a rogue, he would have, therefore, caused no end of embarrassment to the officers of justice. If Chang were drunk and disorderly in the streets, what policeman could have arrested him without laying himself open to a charge of false imprisonment from the unoffending Eng? Had these twins been evil-minded, and conscious of the perplexities they could have originated, there is no knowing what might have happened. The law would have been powerless, for vice must have triumphed and virtue been oppressed, or, virtue triumphed and vice gone unpunished. Twins of this description are by no means desirable under such possible contingencies."

Lord Norbury hated a bill of exceptions almost as much as he did a nonsuit. On this subject a remarkable scene occurred between him and O'Connell. To appreciate it we must recollect that they detested each other, and we must picture to ourselves O'Connell lowering and raging as the Judge smiled and sneered. Daniel, to Norbury's great dissatisfaction, tendered his bill of exceptions to the Judge, which, if he refused, subjected him to a heavy penalty. "You're surely not in earnest, Mr. O'Connell?" "I never was more in earnest in my life," said Daniel, bowing both lowly and leeringly, "I hope I know my duty to the