

THE LEGAL PROFESSION IN ENGLAND AND AMERICA.

rican court-rooms, except that there most of the space is appropriated to the convenience of the judges, while in England, as here also, the judges' quarters are very narrow, and those of the bar more ample.

The difference of the social position of the two classes of the profession in England is world-wide apart. That of the barrister is esteemed among the first class of the gentle and well-bred in the kingdom, coming next to the nobility and gentry itself. All the high judicial offices of the realm and its dependencies come exclusively from the higher order of the profession. No judicial appointments, as a rule, are made from the solicitors. Indeed, none can be so made. Many very eminent judicial officers have from time to time begun life as solicitors, but they have become barristers long before they were made judges, and this by keeping their full terms in one of the Inns of Court or Law Colleges, the only avenue to the higher grade in the profession. Lord Hardwicke was originally a solicitor; and the same is true of Chief Justice Wilde, of the Common Pleas, afterwards Lord Chancellor; and Truro, a very eminent Judge, and we believe the present Mr. Justice Hannen, of the Queen's Bench, was at one time a solicitor, and that he was called to the bench before he had taken his silk gown.* And there are many other similar exceptional cases; but the rule is otherwise.

The distinction between senior and junior counsel, not only in position but in work, is maintained with great strictness and, it might almost be said, severity. A barrister "in stuff," who settles the pleading, and does much of the manual labour in preparing a cause for hearing, the moment he "takes silk," as it is called, ceases from all such work, even in the causes in which he is already engaged, and other counsel must be employed and instructed before the case can proceed, if the delay costs the loss of a trial at the time appointed: at least this is the rule. There may be, now and then, an exceptional case, growing out of the exceptional character of the man; for in England, as everywhere, there will be some exceptional characters, who will insist upon doing their own work in their own way, in spite of all the canons of custom, or the horrors of those who will regard them as little less than barbarians, because they presume thus to transgress the rules of etiquette.

But no solicitor is ever, under any pretence whatever, permitted to intrude himself into

any office or function of the barrister, either senior or junior. He may know more law, and be better able to present the case understandingly to court or jury than all the barristers in London or Middlesex; and that is sometimes true in a particular case; but he cannot be allowed to say one word to the court or jury, or to ask one question of any witness, under any pretence whatever. One would just as soon expect him to come into court *in puris naturalibus*, or to utter the direst profanity in the presence of the judges. The thing is not even to be dreamed of. If one happens to have a complicated cause, or a stupid barrister to conduct it, which is not an exceptional case anywhere, he must be content to let his solicitor, perhaps a brilliant man and an elegant speaker, distil his, the lieutenant's, ideas through the cranium of his forlorn senior counsel, who is the only man whom etiquette will allow the court and jury to listen to in the first instance, the other barristers following him in the order of seniority; but the solicitors never, under any circumstances.

There is another rule, too, which looks very queer to an American lawyer. The most condescending and courteous barrister will not, on any account, allow himself to communicate with his client, face to face. That must be done, and can only be done, through the solicitor. The client may himself understand the case better than any barrister, both the law and the fact. He may have a cause of great complication and difficulty. He may sometimes feel that his solicitor is not fortunate either in his comprehension or his mode of communicating with counsel, and that he fails to give the fullest force of the cause, or some particular points of it, to the counsel. No matter; his mouth is sealed. He must commit an inexcusable discourtesy, or lose his cause, and lose it any way he will, if he presumes to violate the cast iron etiquette and consistency of the English bar. His counsel would throw up his brief in the midst of the trial, if his client should presume to speak to him in court, or indeed out of court, in regard to the cause. It is a thing not to be endured, and no man ever thinks of it, any more than the culprit in the dock, under sentence of death, thinks of redeeming his lost position by an assault upon the judge. The thing is simply impossible. It is not only *flat justitia ruat cælum*, but let justice come in its own way, or the sky will fall!

Now, all this sounds very ludicrous to an American; more so, if possible, than our practice does to an English barrister. An English barrister in full practice cannot well comprehend how this is endured by American counsellors, for whom he cannot help entertaining a sort of half-and-half respect, after seeing them, day after day, and finding that they sometimes understand the rules of the English law quite as familiarly as himself—whom he cannot help respecting, we say, if he would; but there is certainly no want of courtesy

* Mr. Jeaffreson, in his Book about Lawyers, gives a long list of distinguished members of the bar, who began as solicitors; among whom he enumerates Sir William Grant, Master of the Rolls, and one of the most eminent of all the long line of English equity judges; Lord Mansfield, the most original and self-reliant of all the distinguished common-law judges; Lord Thurlow, for many years Lord High Chancellor, and whose ability and independence gained him respect, in spite of his sometimes coarse wit and constant profanity; and Sir Samuel Romilly, Master of the Rolls, and a law lord for hearing appeals in the House of Lords, although but seldom sitting in that capacity.