

and who are saying so, on all sides, make their protest effective? It can be shewn that a knowledge of the principles of the very subject which has been so long neglected—practice and procedure—would go far to remedy the disease, and to restore the harmony of the law.”

In his “Circuit Journeys” Chief Justice Cockburn, in speaking of the trial of some women, mentions that he was greatly diverted by overhearing the opinion entertained by one of the accused of himself and his learned colleague. The virago remarked to one of her associates in the dock, “Twa auld gray-headed blackguards. They gie us plenty o’ their law, but deevlish little joostice.”

The learned founder of this journal, Sir James Gowan, was, in his capacity as a Division Court judge necessarily compelled in disposing of cases to remember that in deciding questions of law and fact, he was to make such order as might “appear to him just and agreeable to equity and good conscience.” He was, however, strongly of the opinion that certainty and uniformity in the administration of the law was of primary importance. He once quoted to the writer a remark which seemed to him appropriate to the occasion, made by a celebrated judge of the United States when one of his associates remarked after his learned brother had delivered his judgment, “That may be law, but in my opinion it is not equity.” “Equity,” snorted his irritated senior, “Equity! What’s equity? Damn equity!” This remark, by the way, would, no doubt, have been heard with much gusto by one of the best and wittiest of our own judges, Chief Justice Hagarty, who often expressed himself somewhat strongly when legislative fusion of law and equity was proposed, and finally carried out, in the Province of Ontario.

It will not be out of place in connection with this subject to reproduce a discussion which appears in a note to s. 54 in O’Brien’s Division Court Act (1879). This note (p. 48), though it deals primarily with the incorporation of equity in Division Court administration is of interest in a discussion on the important subject brought to the attention of the Bench by the