

CORRESPONDENCE—FLOTSAM AND JETSAM.

4. A Demurrer Book shall be left with the Clerk of the Crown and Pleas of the Court in which the cause is pending at the time of setting down the demurrers.

(Signed),

WM. B. RICHARDS, C. J.
JOHN H. HAGARTY, C. J. C. P.
JOS. C. MORRISON, J.
ADAM WILSON, J.
JOHN W. GWYNNE, J.
THOMAS GALT, J.

CORRESPONDENCE.

Crown Counsel.

TO THE EDITOR OF THE CANADA LAW JOURNAL.

It would scarcely seem necessary at this hour of the day to ask any questions as to the position of Crown counsel and the rules of professional ethics affecting them; but what I heard at the trial of a case at the last Toronto assizes shows a somewhat curious state of things to my mind, and suggests the inquiry: Is it etiquette for a lawyer who advises a private prosecutor, and has the conduct of his case, to appear on the trial of the indictment as Crown counsel and avowedly not as counsel for the private prosecutor?

The point came up recently on the trial of an indictment for libel of much general interest, the defendant being the manager of a newspaper company. It appeared, moreover, that the prosecutor commenced life as a shoemaker, whilst the defendant was said to be of good social position and of liberal education. The jury was a "common jury," and was, I presume, of the ordinary capacity.

In his closing speech the Crown officer referred at great length to the fact that the prosecutor was a poor man with five small children, whilst the defendant was a "grandee," "nabob," "aristocratic blood," "fashionable blade," &c., and stated that this "grandee," &c., was endeavouring to crush a man who was trying to raise himself in the social scale—wishing to "send him back to his last." He concluded by reading from his brief a long list of eminent men who were of humble origin and of ignoble birth, drawing attention to the difference in social position between the prosecutor and the defendant, and thus having the probable effect (I presume a lawyer is supposed to

know that he is responsible for the result of his acts) of prejudicing the minds of the jury against the defendant, without regard to the evidence.

As a matter of taste such fomenting of class prejudices is not what I should have supposed an enlightened Bar would be proud of. But such a course on the part of the Crown counsel is not what I should have expected to witness in this country at this period of the nineteenth century.

I may mention that the learned gentleman asserted most strongly that he was acting for the Crown and not for the private prosecutor. I should be glad to know your view on these points, as they seem to me of interest to the profession.

Yours truly,

COUNTRY PRACTITIONER.

[We have a horror of libels and politics and all such unpleasant public amusements, and should not have felt inclined to publish the above, but that it touches upon what is really a matter of great importance to the good name of the profession, viz.: that the counsel for the Crown should not go beyond the well-established and universally recognized line of conduct in conducting a prosecution. The theory is that the Crown is the protector of public rights, and stands between its subjects to see justice done according to law. The duty of the Crown officer, who is the mouthpiece of the Crown, is to see that all proper evidence against a prisoner or defendant is fully and fairly laid before the jury, and also to see that the cause of the accused is not jeopardized by improper evidence or prejudice. Whatever is "more than this cometh of evil," or arises from ignorance or want of temper. We should have thought that the safer plan to prevent any suspicion would be for a counsel who has acted for a private prosecutor to decline to act for the Crown in that particular matter.—Eds. L. J.]

FLOTSAM AND JETSAM.

A judge, rejoicing in the well-known legal name of Doe, has lately made his appearance on the New Hampshire Bench, and is astonishing the professional world by his exhaustive judgments. In a recent partnership case, his opinion was 284 pages in length. He must consume and digest a vast amount of case law.