

not, to criticize the deliverance of Judges, provided, of course, that the criticism is temperately worded, and is not made under such circumstances as to improperly influence a pending case.

In the present case it was held that the letter in question was in no sense a contempt of court, and that the criticisms contained therein were such as might properly be made.

This is what Mr. Justice Gwynne says with regard to it, and we quote his words as a complete vindication so far as any impropriety is concerned :

"This much may, I think, be said of the letter, that whether the reasoning, upon which the soundness of the learned Master's judgment was impugned, be sound or otherwise, and whether the authorities and references by which the writer essayed to support his argument, when properly understood, gave weight to his argument, or had the contrary effect, the whole tenor of the letter nevertheless appeared upon its face to be, as it was intended to be, an argument calling in question a judgment delivered upon purely legal grounds, and that on a motion to commit the writer of the letter as guilty of contempt of court upon any public grounds, as that the letter contained any calumnious interpretation of, or as a personal attack upon the integrity of the judge, or as having a tendency to bring him or his judgments into contempt with the public, there could not have been found, I think, in modern times at least, any precedent for entertaining such an application upon such grounds, upon like material ; and certainly none of the authorities which were relied upon by the relator in the present case would have had any application in such a case." And the same learned judge also says : "Mr. O'Brien's letter, which stated his reasons for thinking the qualification to be good, and the Master's judgment to be erroneous, could in no conceivable manner prejudice the relator's case unless the matter of the letter could be construed to have a tendency to interfere with the due administration of justice in a Court of Appeal in the event of the Master's judgment being brought before such a Court, by appeal. A suggestion that it could have such a tendency as offering by implication a grave insult to that Court, would seem to partake of contempt of court, more than anything in the letter complained of, which, as a legal argument, appears to have been, in the opinion of the Court of Appeal for Ontario, exceedingly weak, defective, and inconclusive, but whether the argument be weak or strong the suggestion that this argument, stamped as it was with the infirmity that it expressed merely the legal opinion of the solicitor of the party against whose contention the judgment had been rendered, might have a tendency to taint, obstruct, or interfere with the due administration of justice in the Court of Appeal, in the event of the matter being brought before that court, is a preposterous proposition for which there is no foundation, and in my opinion it cannot be, and should not have been entertained : " and with him concurred Fournier, J., while Ritchie, C.J., and Strong and Taschereau, JJ., express no manner of dissent, but on the contrary, all agreed that the appeal should be allowed with costs.

As to the objection made on behalf of the respondent that this was an appeal on the subject of costs only, and with reference to the remark of the learned Chief Justice of the Court of Appeal on the argument that the whole matter