

"It seems to me that the jurisdiction of committing for contempt, being practically arbitrary and unlimited, should be most jealously and carefully watched, and exercised, if I may say so, with the greatest reluctance and the greatest anxiety on the part of the judges to see whether there is no other mode which is not open to the objection of arbitrariness, and which can be brought to bear upon the subject. I say that a judge should be most careful to see that the cause cannot be fairly prosecuted to a hearing unless this extreme mode of dealing with persons brought before him in accusations of contempt of court should be adopted. I have myself had many occasions to consider the jurisdiction, and I have always thought that, necessary though it be, it is necessary only in the sense in which extreme measures are sometimes necessary to preserve men's rights—that is, if no other pertinent remedy can be found. Probably that would be discovered after consultation to be the true measure of the exercise of the jurisdiction."

The opinions of Lord Mellish and Lord Fitzgerald to the same effect were also quoted. The action of Lord Selborne, in introducing in the House of Lords a bill to control and limit the power of judges in dealing with constructive contempt, was also referred to. As to the articles quoted, which were adjudged to be libellous, it was contended that while the language used was open to censure, still it was not such as to justify such condemnation and penalty as was awarded, being little more than such comment upon the course pursued with regard to the election as was justified by the circumstances. Some discussion also took place upon the judgment of the court of New Brunswick in asserting its right to interfere with the action of the county judge with reference to the recount—a view which was different from that of the Ontario court in the case of the North Wellington election. In the former case, the court decided that the county judge acted in a judicial capacity, and could therefore be controlled by the court above; and in the other it was held that as the judge was in such case acting as an officer deputed by Parliament, he was not within the jurisdiction of the court.

By those members who opposed the resolution it was pointed out that, while no reasonable man could deny the libellous character of the publication, it was the suitor, Mr. Baird, and not the judges themselves, who set the court in motion. That, so far as