

been condemned to six months imprisonment by the Supreme Court of Civil Justice of the Colony for a contempt. I do not cite this case to show positively that the Lords of the Privy Council have decided that there is a right to appeal in cases of contempt, because they have granted the order without prejudice to the competency of the appeal; but I bring it forward to show that the Privy Council has not laid down the doctrine that is about to be laid down in this case; but on the contrary, in so far as it has judged, it has leaned to a contrary opinion. But what can be the inconvenience of a party condemned coming before the five judges here, instead of being satisfied with the decision of one who may be his enemy, perhaps his political enemy, and asking them to decide whether the condemnation of the one is legal? Are we to answer him and say, not only we shall decide against you, but we won't even hear you? Is he to have no remedy but an impeachment? To say that there is no remedy in this constitutional country seems to me very strange indeed. Besides an impeachment is not a remedy for the injured party. It can only end in the censure or dismissal of the judge. How strangely does this case contrast with one which occurred here some short time ago.* An enormous crime was committed, a crime that might involve the country in war. In that case the Court of Queen's Bench, as in Mr. Ramsay's case, the Court of Queen's Bench—for I will not commit the folly of calling it the judgment of Mr. Justice Drummond—gave an order as to the custody of the prisoners, and yet on *habeas corpus* a judge in Chambers declared that the order of the Court of Queen's Bench was null and void. If this could be done on *habeas corpus*, why not on Writ of Error? If the arbitrary doctrine is to prevail that there is no mode of reviewing a judgment for contempt, what becomes of the right of free discussion, and the liberty of the press? We shall be in the same condition they are in France, for any Judge may say—"Mr. Editor, you shall not write this or that." For myself I want no such privilege; not only as a citizen but as judge I invite the scrutiny of the public

* His honor refers to *Ex parte Blossom*, 1 L. C. Law Journal, 88.

eye. If I am honest, I have nothing to fear; and if I am dishonest, the sooner I am found out the better. Apart from the rule laid down in our statute, and which, as I have shown clearly, gives the Writ, I shall show that the same doctrine is laid down by Blackstone.

"A judgment may be reversed by writ of error: which lies from all inferior criminal jurisdictions to the Court of King's Bench, and from the King's Bench to the House of Peers; and may be brought for notorious mistakes in the judgment or other parts of the record: as where a man is found guilty of perjury and receives the judgment of felony, or for other less palpable errors; such as any irregularity, omission, or want of form in the process of outlawry, or proclamations; the want of a proper addition to the defendant's name, according to the statute of additions; for not properly naming the sheriff or other officer of the Court, or not duly describing where his county court was held; for laying an offence, committed in the time of the late king, to be done against the peace of the present; and for many other similar causes."

Blackstone, like our statute, does not particularize, but it was not necessary for him to do so. It is mathematically included; the whole contains its part, and it is not for me to cut off a segment of the circle, and to say that the whole circle is to be considered less the segment. Mr. Ramsay may have been right or he may have been wrong, but with that I have nothing to do at present. He has at all events done his best to have the judgment reviewed, and he is met by the answer, you have no remedy. In the case of Barsalou, I refused a rule for contempt, for I trembled at the idea of putting an arbitrary restriction on discussion; and if a libel had been published, there was another course—by indictment. I must express my formal dissent from the judgment about to be rendered.

AYLWIN, J. No reported or adjudged case can be found to support the writ issued in this case. It is the first time the Attorney General has consented to the issuing of such writ, and I am of opinion that it issued illegally and must be quashed.

BADGLEY, J. The learned Judge Mondelet