

person who had been committed by a Court of Assize for contempt in refusing to answer a question put to him as a witness, yet the Chief Justice of the Common Pleas said: "If Mr. Fernandez feels himself aggrieved by the course which has been pursued, he may petition the Sovereign for relief."

It will suffice for our purpose to cite but two cases illustrative of what the American law is on the subject. In *The State v. Sauvinet* (24 La. Ann. 119; 13 Am. Rep. 118), Taliaferro, J., says: "The opinion entertained to some extent that punishments decreed for such offences [contempts] must necessarily be inflicted at the stern arbitrament of the judges, without remission or abatement by the pardoning power, we do not find to rest upon any firm basis of principle or authority. A contempt of court is an offence against the State, and not an offence against the judge personally. In such a case the State is the offended party, and it belongs to the State, acting through another department of its government, to pardon or not to pardon the offender." In *Ex parte Hickey* (4 Sm. & M. 783), Thacher, J., in the course of a very able opinion, says: "Contempts of court are treated by all elementary writers as public wrongs. The whole doctrine of contempts goes to the point that the offence is a wrong to the public, not to the person of the functionary to whom it is offered, considered merely as an individual. It follows, then, that contempts of court are either crimes or misdemeanours in proportion to the aggravation of the offence, and, as such, are included within the pardoning power of the State."

Perhaps it will be well, in order to satisfy our transatlantic contemporary that the American doctrine, as above expounded, was not settled without reference to a good and substantial English foundation, to quote the language of Chief Justice Marshall in delivering the opinion of the Supreme Court of the United States in *United States v. Wilson* (7 Pet. 160): "The power of pardon in criminal cases has been exercised from time immemorial by the executive of that nation whose language is our language, and to whose judicial institutions ours bear a close resemblance. We adopt their principles respecting the operation and effect of a pardon, and look into their books for the rules prescribing the manner in which it is to be used by the person who would avail himself of it."

Without entering at all into the argument of expediency (because that is quite beyond the scope of the present discussion), we are free to say that, in view of the fiction of English law which endows Her Majesty with ubiquity in respect of the courts of record in all her wide dominions, and makes disrespect offered to the judges thereof contempts against the Sovereign in person, it does seem a strange thing to hold that she cannot extend to one who offends against her own dignity in this way "the most amiable prerogative of pardon."

We think the whole current of authority, both in England and America, is in harmony with the cases we have here referred to, and that it goes to establish beyond a doubt that contempts of court not only fall within the meaning of that very comprehensive phrase, "offences against the laws," but that a certain class of them (such as the one in question) are treated and punished as crimes, and, as such, are properly pardonable by the Crown.