

is our present purpose merely to call in question the opinion of the *Law Times* that a contempt of court is not an "offence against the laws," and that the prerogative of pardon cannot be extended to a person who has been adjudged to be in contempt and has been committed to prison therefor.

Notwithstanding Sir James F. Stephen's cautiously expressed doubt to the contrary ("Digest of the Criminal Law," Art. 65, n. 2), it is well established by the authorities that contempts which involve disrespect of the court or its process, and are punished by fine and imprisonment, form a breach of the criminal law. They have been treated as such from the very earliest period of English law. (See *The King v. Almon* in Wilm. Op. 253; *In re Pollard*, L.R. 2 P.C. 106; Hawk. P.C., Vol. I., c. 22, p. 207; 4 Bl. Com. 283; Harris, Prin. C.L., 5th ed., p. 106; Bouv. L.D. v. "Crime.") Erle, C.J., in *Ex parte Fernandez*, 10 C.B.N.S. 38, in speaking of the nature of contempts, says: "The judges, in the discharge of their important functions, are liable to be interrupted by those who are interested in supporting wrong, whether by personal disturbance of the judge, or by improperly influencing the jury, or by perverting or keeping back evidence, and so hindering and obstructing the course of public justice. Powers must necessarily be vested in the judges to keep that course free and unimpeded. Such offences are properly punishable as *sinning against the majesty of the law*." Perhaps no better definition of the character of such contempts can be furnished than that pronounced by Blatchford, C.J., in *Fischer v. Hayes*, 6 Fed. Rep. 63: "A contempt of court is a specific criminal offence, and the imposition of a fine for such contempt is a judgment in a criminal case." Authorities to the like effect might be cited to a practically unlimited extent both in English and American law.

Having thus seen that a contempt of court, such as the one in question, has a recognized status in punitive law, and should not be relegated to some undefined limbo of wrongs, let us pass on to consider whether or not it is an offence that is pardonable.

Bishop, in his work on the "Criminal Law" (7th ed., vol. 2, s. 913), hits the nail on the head for us in a very summary way. He there says: "Contempts of court are public offences, pardonable like any other." In support of this proposition he cites Hawk. P.C., Vol. II., Bk. 2, c. 37. Again, in 2 Ventris 194, we find the following statement of an anonymous case bearing on the subject in hand: "An attachment was granted against an attorney for a misdemeanour in practice, and upon a rule of court it was referred to the prothonotary to tax costs for the party grieved, which were taxed accordingly; and then came out the Act of General Pardon, which discharged the contempt." There is still an older case than this, *i.e.*, *The Mayor of Sandwich's Case* (22 Edw. I., Mich. Mem. Scacc.), which is more decisive of the point. In this case the mayor of Sandwich was committed by a Baron of the Exchequer because "he would not answer the court." He was adjudged to be in contempt by such behaviour, and was fined and sent to prison, but "*the King pardoned his contempt*." In the more recent English case of *Ex parte Fernandez*, *ut supra*, although the Courts of Exchequer and Common Pleas both refused to grant a writ of *habeas corpus* the case of in a