three nights after it had been read a first time. It was a very carefully drawn bill, almost in the words of many of the authorities, and I cannot believe it was prepared without care.

[DRUMMOND, J. It was copied from some American acts, and people there regret they had ever been passed.]

Since opinions are to be stated, I think it is a great pity this one had not been passed, for it would have obviated some proceedings which certainly have not been conducive to the interests of justice. I now conclude this preliminary argument, by repeating that Mr. Justice Drummond is incompetent to sit by the statute and from bias.

<div align="center">C. A. V.</div>

<div align="center">March 7.</div>

DUVAL, C. J. In this case the statute, instead of being in favor of the plaintiff in error, is against him. We were referred to sects. 7 and 8 of cap. 77, Con. Stat. of L. C., but the law on the subject is to be found in sec. 56. Sections 7 and 8 refer to civil cases, sec. 56 to criminal cases; and the disqualifying condition is not to be found in the latter. The reason of this must be that in criminal cases it was left to be decided by the English law. As for the question of bias, we do not decide anything as to the merits; but we say that if it be a contempt of Court, Mr. Justice Drummond has a right to sit.

AYLWIN, DRUMMOND, BADGLEY, and MONDELET, JJ., concurred.

Recusation dismissed.

Mr. Ramsay filed an exception to the judgment, and moved, by consent of the Attorney General, to be allowed to appeal to the Privy Council.

DUVAL, C. J.: Have you any right of appeal to the Privy Council?

Mr. Ramsay: If I have on the merits, I have on the interlocutory, unless the other party objects. The only reason of the consent of the Court being required in an interlocutory is that cases may not be unnecessarily hung up by appeals which might be decided on the merits. When the competence of the Court is a matter in issue, it seems peculiarly favorable for an appeal, more particularly in cases like this where it is desirable that as little scandal should be caused as possible.

Right to appeal refused, MONDELET, J., dissenting.

When the case was called, Mr. Ramsay moved to discharge the inscription likewise with the consent of the Attorney General. He said that the Court could not interfere, that the Crown was *dominus litis;* if not, who was? It had been declared by the Court that morning that it was not Mr. Justice Drummond. If it was the Queen, she was represented by the Attorney General. In the case of the Queen and Howes, 7 A. and E., it was held by *Denman,* C. J., and four of the judges, that if the Crown did not join in error the prisoner must be discharged. It had always been so held for misdemeanours, and they could not see what else they could decide in a felony.

DUVAL, C. J., said he did not recognize the authority of the Attorney General to abandon a proceeding for contempt.

Mr. Ramsay. He can even for a felony; *a fortiori* for a contempt, which is only a misdemeanor.

Motion to discharge inscription refused, MONDELET, J., dissenting.

Mr. Ramsay excepted to the judgment, and moved again to be allowed to appeal to the Privy Council.

Motion refused, MONDELET, J., dissenting.

Mr. Ramsay then proceeded to argue the case on the merits.

[DUVAL, C. J.: There is a preliminary question which should be settled. Have you a Writ of Error in a case of this sort?]

I am quite prepared for that objection. I have only found one case—the Earl of Devonshire, where a Writ of Error was allowed to the House of Lords for a contempt in the King's Palace. But apart from that, our statute is express—C. S. L. C., cap. 77, Sec. 56. It says that there shall be a writ in *all* criminal cases. Here there can be no clashing of clauses, for it is the criminal clause referred to by the Chief Justice this morning. The statute only confirms the common law. None of the authorities say that in cases of contempt there shall be none. And why should there be a distinction? The object of a Writ Error is to examine as to the regularity of the form of the proceedings. The Chief Justice seemed to think yesterday that jurisdiction