The Lower Canada Law Journal.

Vol. II. APRIL, 1867. No. 10.

THE RAMSAY CONTEMPT CASE.

We devote a considerable portion of our space this month to the proceedings before the Court of Queen's Bench in the case of Mr. Ramsay. Unless the Judicial Committee of the Privy Council see fit to entertain an appeal, the judgment of our highest Colonial Court is, of course, final and conclusive, and we think it must be conceded that the weight of authority is entirely on the side of the majority. We admit, however, the cogency of Mr. Justice Mondelet's argument. There is something startling in the assertion of our Supreme Court that in certain exceptional cases, called contempts of Court, the same individual may be the accuser, the witness, and the judge, and his judgment final and irreversible. As stating this side of the question, we give here Mr. Ramsay's letter to the Editor of the *Montreal Gazette*, under date March 11th.

"Sir,—You have very properly said that the judgments in my case give cause for alarm to the whole community, and the judgment of Saturday does not tend to allay the apprehension. It will be observed that the question decided is not whether this or that thing is a contempt; but the judges have laid claim to two privileges which are totally incompatible with the liberty of the subject:

1st. That any judge may construe an act either in Court or out of Court, into a constructive contempt of Court.

2nd. That his decision, whether regular or irregular, is not subject to any kind of revision; nay, not even in Error.

In addressing you now I have no other object than to prevent any misrepresentation being attempted as to the true issue—an issue in which I am far less interested than most other people. Had I sought my own ease and convenience, I could possibly have obtained the remission of the fine; but it seemed to me that the question involved should not be so evaded. If the judges collectively arrogate to themselves such privileges as these, the proper remedy is one that shall be of general and not of partial applicability. In a word, if they declare that by law they have powers dangerous to society, why then the law must be changed. To bring about this change the general question must not be lost sight of in the particular. It is not whether under the circumstances the letters complained of ought to be considered a contempt; but whether the complainant can be at once complainant and judge, and this finally, arbitrarily, and without responsibility.

As I shall have other opportunities of entering into the whole merits of this case, it is not now my intention to discuss the various judgments given on the preliminaries of my case; but they have one common feature which I think it right to indicate. All are, and profess to be, exceptions, for which no law is cited, and no serious argument attempted. Contempts, we are given to understand, are cases totally apart from all others—they are not susceptible of definition, and they have no analogies. They are so subtle that no general words will reach them; they are not included in *all* crimes whatsoever, nor I presume in *all* cases whatsoever. Will such a state of things be permitted to outlive for one year the announcement of its existence?"

No one will object to the fullest discussion of the subject, with a view to Legislative interference; but it may here be observed that we have two examples of lawyers modifying the views upheld and expressed in earlier years. One is the judge concerned in this case, who, while Solicitor General, drafted the bill read by Mr. Ramsay in the course of his argument. The other is Mr. Erskine, who, according to Chief Justice Duval, when Lord Chancellor, greatly modified the views contained in the letter cited *ante*, page 145.

The elaborate judgments in this case (especially that of Mr. Justice Badgley) leave nothing to be said, but we find in the *American Law Register* for January, another authority of some interest. Chancellor Kent, under date 13th March, 1826, writes thus to Mr. Livingston, criticizing that gentleman's crim-