

formal adjudication of his being in contempt was necessary, then it would appear that the proper proceeding was as it is now to apply to commit him, and on the return of the motion he would have an opportunity to make his defence and if he failed, then the order to commit would not be in the nature of a summons to shew cause, but a definite adjudication that he was in contempt, which would be irrebuttable, and the only remedy would be by way of appeal, if any.

The same line of reasoning would appear to be applicable in cases where it is sought to punish contempts by strangers to a cause as, for instance, for publications interfering with the course of justice, or other contempts committed outside the Court, the proper motion would appear to be to commit and not a motion for attachment—unless the application is for any reason made *ex parte*. Cases might arise where, if a notice of motion were served, the offending party would possibly elude justice and the Court might see fit on an *ex parte* application to grant an attachment, but an attachment would not, in such circumstances, be a conclusive adjudication, whereas an order for committal made on notice would be so.

Seeing, however, that a writ of attachment can no longer in any circumstances be issued without the leave of the Court; it seems to be open to question whether the writ should any longer be in its present form, No. 120, except only where it is issued *ex parte*. When issued after notice, it is issued as the result of an adjudication that the party to be attached is in fact in default, and it ceases therefore to be appropriate to call on him to *answer* his *alleged* contempt and the writ should rather take the form of a committal for a designated contempt.

Some years ago some articles appeared in the *Law Quarterly Review* (see 25 L.Q.R.) in which it was sought to cast doubt on the right of the Court to exercise a summary jurisdiction in cases of contempt, and in which it was suggested that the ancient and proper procedure was by information. But the procedure by attachment would appear to be in strict analogy