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CONTEMPT OF COURT.

It appears that the sentence pronounced by Chief Justice Austin in the case of Thos. Taylor (11 Leg. News, 249) has been set aside on the ground of illegality. The matter was brought up in the House of Commons by a question put by a member, which resulted in some correspondence between the Imperial and colonial authorities. A correspondent of the *Nassau Guardian* writes in the Chief Justice's defence as follows: "Mr. Pickersgill (the Liberal M.P. for Bethnal Green) would then have learned that this Thomas Taylor is not only a confirmed and hardened felon, but that he is also a dangerous criminal. That some years ago, whilst undergoing one of his many terms of imprisonment, he made a dangerous assault on one of the overseers with a pick-axe. That for this he was properly whipped. His assault on the Chief Justice was of a like nature. It seemed as though he wanted to show the public how contemptingly he esteemed a court of justice inasmuch as in open court, and whilst the judge was discharging his judicial functions, he made this dangerous assault upon him. Now what course was the Chief Justice to adopt? True, it was a criminal assault and could be punished as such. Again, it was a contempt of court and could be punished as such. Now which of these courses did the Chief Justice adopt? I have heard it frequently spoken that he himself was personally unwilling to proceed further in the matter, and that it was in accordance with public feeling that the felon was again brought before him and the dignity of the Bench vindicated. Now, so much for the personal aspect of the case. What as to its legal aspect? The despatch of the Secretary of State treats the entire sentence as illegal. The Attorney-General, however, seems to think the illegality consisted in the infliction of corporal punishment. With all due deference to these high authorities, I, for myself, seem to think the

sentence perfectly legal, and will endeavor to show why. That this case was a gross contempt of court, no one will dispute. The Attorney-General admits this, but takes exception to the corporal punishment inflicted. The question then resolves itself into whether the Chief Justice can inflict corporal punishment for contempt of court. Now by 45 Geo. III., ch. 151, the General Court of these islands is constituted a Court of Record with all the powers, authorities and jurisdiction exercised by the Court of Queen's Bench and other superior Courts of Record in England. The jurisdiction to punish for contempt of court, rests with the court and in the discretion of the judge. An appeal from the exercise of that jurisdiction lies to the Privy Council in England. The usual punishment for contempt of court is fine and imprisonment. But though this is the usual form of punishment, what law prohibits a judge on proper cause from adding whipping as a further punishment? I know of no case where it is laid down that a judge is so prohibited. On the contrary, I find in *Comyns' Digest* that whipping can by the common law be inflicted by a judge on proper cause. Now, what more proper cause than this case of Thomas Taylor? Besides, if the prison official can inflict whipping on an offender, why cannot our Chief Justice? The punishment of whipping arises by the common law and is only restrained and regulated by statute. I know and fully agree with the feeling in England against corporal punishment, but that does not affect my opinion of its legal character. I hold that the Chief Justice had by common law the right of adding whipping to the other sentence of imprisonment. But assuming for the sake of argument, Mr. Editor, that he acted illegally in so doing, who is to set aside his decision? By English law, the Privy Council has been set apart as the Court of Appeal for that purpose. It and it only can legally review the sentence of the Chief Justice and reverse it. The Colonial office has by English law no judicial functions. It can in the exercise of the Crown's rights remit a sentence, but it cannot legally review or reverse it. The despatch you have published does, however, do this. It states that the sentence is illegal,