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APPEALS IN FORMA PAUPERIS.

In the case of *Legault* and *Legault*, 2 L. C. Law Journal, p. 10, it was decided, in March last, that an appeal could not be brought *in formâ pauperis* to the appeal side of the Court of Queen's Bench in Lower Canada, Judge *Mondelet*, however, dissenting, and being of opinion that such appeal should be allowed. About the same time the question of appeals *in formâ pauperis* came up in England, and from the report of the case, *Drennan* v. *Andrew*, Law Rep. 1 Ch. 300, it would seem that the practice on this point has varied. Some of the precedents furnished by the Registrar, and stated in a note to the report, are rather curious.

By 11 Hen. VII. c. 12, poor persons were allowed to sue *in formâ pauperis*. By 23 Hen. VIII. c. 15, a pauper was not to pay costs, if he was unsuccessful, but was to suffer *other punishment* in the discretion of the judge. Accordingly the common form of the order allowing a poor person to sue *in formâ pauperis* contained this clause: "But if the matter shall fall out against the plaintiff, he shall be punished with whipping and pillory." There are many orders of the time of Queen Elizabeth which contain this clause; and there was one instance, in 1596, in which Sir Thomas Egerton (afterwards Lord Chancellor *Ellesmere*) ordered a *female* pauper plaintiff to be flogged. At this time no suitor could regularly appeal from a decree in Chancery. It is said in some of the old orders in the time of Elizabeth, speaking of the Court of Chancery, "from which Court the subject has no appeal." As to persons not paupers, this practice was changed, and their right to appeal established; but as to paupers there appears to have prevailed, as late as 1774, and perhaps later, an idea that a pauper could not appeal. In *Bland* v. *Lamb*, the proposition that a pauper could not appeal is said to have been adverted to *arguendo* by Mr. Pemberton, and condemned by Lord *Eldon*, who is stated to have said "it was a very singular proposition; and that he could not see why, because a party was poor, the Court should not set itself right."

Lord Chancellor *Cranworth*, in *Drennan* v. *Andrew*, directed the petition of appeal to be received. He said there appeared to be some conflict of practice on the point, but he was of opinion that where the common order to sue *in formâ pauperis* had been obtained at any time during the suit, such order was sufficient to carry the pauper through all the stages of the suit; and that in that case, an order for leave to appeal *in formâ pauperis* was unnecessary.

CONTEMPT OF COURT.

To the Editor of the L. C. Law Journal.

The subject of "Contempt of Court" having lately been rather prominently before the Lower Canadian legal world, the following opinion, given by Mr. Erskine, (afterwards Lord High Chancellor) in a letter to a gentleman in high reputation at the bar in Dublin, may probably prove interesting:—

"Bath, January 13th, 1785.

"The right of the Superior Courts to proceed by attachment, and the limitations imposed upon that right, are established upon principles too plain to be misunderstood.

"Every Court must have power to enforce its own process, and to vindicate contempt of its authority, otherwise the laws would be despised; and this obvious necessity at once produces and limits the process of attachment.

"Whenever any act is done by a Court which the subject is bound to obey, obedience may be enforced, and disobedience punished, by that summary proceeding (committal for contempt). Upon this principle attachments issue against officers for contempts in not obeying the process of Courts directed to them as the ministerial servants of the law, and the parties on whom such process is served may in like manner be attached for disobedience.

"Many other cases might be put, in which