

without respect of persons, as in the case, some centuries ago, when a chief justice of England committed for contempt the heir apparent of the throne; as well as in the numerous instances in which it has since found it necessary to discipline the Bar for abuse of their privileges, as well as to punish the public for misconduct in Court. But judges are, after all, but men; and men invested, however reasonably, with arbitrary power, are liable to misuse it, sometimes from ill-temper, and more often from an exaggerated idea of the importance attaching to their positions, and of the value of their opinions. This power is evidently one which, in the interest of the public, as well as of the profession, should be exercised sparingly, or it will fall into contempt—upon very sure grounds, or it will not be respected—with good temper, or it will only be resented. To the lay mind, accustomed to feel the highest respect for the Court, nothing is more unseemingly than a wrangle between the Bench and the Bar, and it is indeed to the credit of both that such exhibitions are of rare occurrence.

We have been led to refer to this subject by the recent action of the County Court Judge of Hamilton in refusing to hear a counsel who had been reported in a newspaper as commenting adversely upon a judgment given by the said judge in a case previously decided. Three questions here present themselves: Had the judge the power to inflict such, or any, penalty upon counsel for something said or done out of Court? Could, under any circumstances, adverse comment by counsel upon the judgment of any Court be treated as contempt? If the action to which exception was taken was such as to bring it within the power of the judge to inflict a penalty, was he justified in so dealing with it? To all these questions we must give a decided negative. If, as we understand it, the judgment criticised was from the Division Court, that Court, not being a Court of Record, has not inherent power to commit for contempt; the Division Court Act simply gives to the judge of that Court the power to maintain order during the sitting of the Court. If the judgment proceeded from a County Court in England, *The Queen v. Lefroy*, L. R. 8 Q.B. 134, decides that the jurisdiction of judges of the County Courts (the same as our Division Courts) is confined to contempt committed in Court, but does not extend to contempts committed out of Court.

Again, if adverse criticism of a judgment by counsel, whether