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It Pays to Advertise in the Mail

OTTAWA PAPER RELATES AN

his wife and children, said he would should have precisely the same re not send him to jail. "You are con- dress as any other citizen. demned," he said, "you are censured. You may go."

It was a proper use, we think, of a judge's power in the matter of "contempt of court."

The law of "contempt of court" is a unique thing. In parts, it has reason, as we shall specify. In some respects it is a sole survivor, in modern civilization, of barbarism. It is the sole case in which a man who feels himself offended by somebody else can unresponsibility constitute him judge, jury and executioner of the other fellow.

judge chooses to think somebody is guilty of what the judge chooses to put him in jail without trial, and vent his spite by means of the law there is no appeal. Nobody can in-

Nor is there any law to specify what is contempt of court. That is left to a judge's discretion. If a judge were to be caught kissing another man's wife, and the husband protested, the judge could order the husband to be put in jail for contempt of court and to jail the husband would have to go. This may sound ludicrous, but it is not impossible.

We have said that there is reason siderable reason. First, a judge must Secondly, a judge must and should have absolute and immediate power to check outside interference a trial before the issue is decided in his court. In such respects, it would not do any good for a judge to have to institute proceedings of some sont against an offender which implied delay. A judge must and should be able in such cases to smash an ofgeneral power to punish the improper go to jail. The Journal said it could action of anybody in connection with tell Mr. Ferguson something which a trial.

The Hawke Case

casionally the misuse of the law of the bench of the Supreme Court." contempt has got a black eye from Mr. Ferguson went away, and The a quarter of a century ago, a British the matter. judge in the West Indies who impricase we remember in Canada.

the evidence in court and the trained and given to bitter internal strife.

and brought before Judge Callaghan outside of that judicial position and court. The juror had boasted after judge may not be as thin sinned, as conviction of Mrs. Knapp, but the of us. Exertion of arbitrary power laghan had him arrested was that coutr room and his trials. One may when questioned before his selection reasonably hold that outside of his as a juror in the trial Main had made court room and of procedure sub judfalse statements as to his relation ice, a judge should be as completely and as fully subject to the bar of Main pleaded guilty. The judge, on public opinion as anybody else, and account of the man's ill-health, and if he doesn't like what he hears he

The Journal has had more than

one remarkable experience with the vanity and the arrogance of a judgeexperience, also, we may add, with the ability, the impartiability, the broadmindedness and the courage which characterizes most of our Canadian indorsement of a movie dealing with judges. In the main, this country the career of Edith Cavell, Otto H. has a splendid judiciary. As to un- Kahn, banker, has resigned from the be illustrated by recital of one ex- eau, an unoficial agency for the protraordinary episode, and this in con- motion of pictures. He writes: "It nection with the Supreme Court of is desecrating for mere financial gain the Dominion. This was a long time a memory which ought to be held sacago. We recall it to suggest to what red." self-deception and folly a judge is liable when his vanity is hurt, and to no other weapon handy. It was when Sir Henry Strong was Chief Justice of the Supreme Court of the Dominion. An editorial article appeared in The Journal criticising the court because judgments were in arrears in some and hundred and sixty cases one of them for a year and a half undelivered. The article did not name Sir Henry Strong, but rather pointed to him as the chief trouble. Sir Henry was an able judge, but notoriously an arrogant, pugnacious fearless and lazy man, and the court was in confusion. Next day the late Alex Ferguson, K. C., called on The Journal on behalf of the Chief Justice to say that the article must be retracted and apologised for, or the editor must be committed for contempt of court. But why? asked the Journal. Was the article incorrect? Not the point, returned Mr. Ferguson. The point was that the divinity of the court was injured, and thereby the cause of the justice hurt. The Journal said it was not going

to retract or apologise. In that case, Mr. Ferguson said, the editor would would cause him to advise Sir Henry Strong not to protest. Mr. Ferguson 38 King and Regent Sts. said he did not want to hear it. The But it is always dangerous to en- Journal said it was going to tell him 44 Queen and St. John Sts. rust a human being with arbitrary anyway, promising that the informapower. This has been sometimes il- tion was absolutely confidential, lustrated by abuse of judges of the above all he must not tell the Chief law of "contempt of court." A law Justice—but must just use the inforintended to protect justice in and dur- mation for his private guidance, and ing actual trials has often been used persuade the chief fustice as best he to vent the spite or solace the vanity could, otherwise keep quiet. Mr. Ferof a judge. He has chosen to conguson said he couldn't. "Try, anysider himself above criticism or com- way," said The Journal. "Ordinarily 56 Lansdowne and Waterloo Row. ment, and acted accordingly, where it is a newspaper principle not to rein reality justice was not concerned. veal the source of information, but This has not been the case frequently in this case we do it because it seems in the present generation, partly be necessary to avert a grave public cause judges share in the general scandal. The editorial article which advance of toleration and common the chief justice complains of was sense in mankind, partly because oc- written by one of his colleagues on

public opinion. In one case, now Journal never heard any more about

In that episode, the Chief Justice in soned a citizen without proper cause his angry mood proposed to put an was withdrawn by the Imperial Gov- editor in jail for contempt of court ernment and publicly censured. In an- for an article containing an absolute other case shortly afterwards in New ly accurate and fair statement of fact Brunswick, John T. Hawke, publish- penned by a brother justice of his er of the Moncton Transcript, was own court. Could one imagine a jailed by a judge for comment pub- greater travesty on the idea that the lished after a termination of a court cause of justice had been injured? proceeding. A delegation of some Or could there be a better illustration score of leading newspaper publish- of what fools we mortals can be when ers of Canada waited on the Domin- we choose to think ourselves hurt in ion Government in Ottawa to protest. our self-esteem? And if Sir Henry The Government nominally could do Strong had not desisted there would nothing, but Hawke was shortly after- have been a strange scandal. The wards released. That was the last judge who wrote the article would not have allowed the editor to suffer; Presiding in court, a judge with his he would have avoowed authorship professional knowledge and experi- and the Supreme Court would have ence and under the responsibility of been lavishly advertistd throughout his duty, with also the advantage of Canada as being both derelict in duty

Had a Severe Gold Coughed Incessantly

Mrs. C. Fehrman, Selkirk, Ont., writes:—"Last winter I suffered from a very severe cold. I coughed incessantly which irritated the glands and caused sore throat.

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"I got a bottle and after taking a when I had finished it my cold had simply disappeared."

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