Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Thomas J. Wallace v. *the Judges of the Supreme Court of Nova Scotia; delivered 2nd November*, 1866.

Present:

LORD WESTBURY.
SIR JAMES W. COLVILE.
SIR EDWARD VAUGHAN WILLIAMS.

THE Appellant in this case is an Advocate, and also an Attorney, admitted to practice in the Supreme Court of Nova Scotia. It appears that he was also a suitor in that Court. In two or three cases in which he was such Suitor he seems to have supposed that he had reason to complain of the conduct of the Judges of the Court, and he accordingly wrote a letter, addressed to the Chief Justice, reflecting on the Judges, and on the administration of justice generally in the Court; which undoubtedly was a letter of a most reprehensible kind.

This letter was a contempt of Court, which it was hardly possible for the Court to omit taking cognizance of.

It was an offence, however, committed by an individual in his capacity of a suitor in respect of his supposed rights as a suitor, and of an imagined injury done to him as a suitor; and it had no connection whatever with his professional character or anything done by him professionally, either as an Advocate or an Attorney. It was a contempt of Court committed by an individual in his personal character only.

To offences of that kind there has been attached by law and by long practice a definite kind of punishment, viz. fine and imprisonment. It must not, however, be supposed that a Court of Justice has not the power to remove the officers of the

Court if unfit to be entrusted with a professional *status* and character. If an Advocate, for example, were found guilty of crime, there is no doubt that the Court would suspend him. If an Attorney be found guilty of moral delinquency in his private character, there is no doubt that he may be struck off the roll.

But in this particular case there is no *delictum* brought forward or assigned except that which results from the fact of addressing an improper and contemptuous letter to the Judges of the Court, in respect of something supposed to have been done unjustly to the writer in his private capacity as a suitor. We think, therefore, there was no necessity for the Judges to go further than to award to that offence the customary punishment for contempt of Court. We do not find anything which renders it expedient for the public interest, or right for the Court, to interfere with the *status* of the individual as a practitioner in that Court. In that respect, therefore, we think that the Judges departed from the course which ought to have been pursued by adopting a different description of punishment from the ordinary punishment for offences of this nature.

When an offence was committed which might have been adequately corrected by that punishment, and the offence was not one which subjected the individual committing it to anything like general infamy, or an imputation of bad character, so as to render his remaining in the Court as a practitioner improper, we think it was not competent to the Court to inflict upon him a professional punishment for an act which was not done professionally, and which act, *per se*, did not render him improper to remain as a practitioner of the Court.

On this ground, therefore, we do not approve of the Order. At the same time we desire it to be understood that we entirely concur with the Judges of the Court below in the estimate which they have formed of the gross impropriety of the conduct of the Appellant. But we are still of opinion that his conduct did not require and did not authorize a departure from the ordinary mode and standard

of punishment; and upon that ground, and that ground only, we shall advise Her Majesty to discharge the order, in respect of its having substituted a penalty and mode of punishment which was not the appropriate and fitting punishment for the case in question.