

would see if the Legislature of Nova Scotia had checked and restrained their growth, if it had been less careful of the rights of suitors in the Courts of Chancery than the Parliament of England. If it were so, let the suicidal act be carefully framed and preserved as a rarity, for it would soon be known only as part of our history. It would not long remain to discreditably distinguish Nova Scotia from their fellow subjects. To His Excellency and the Executive Council there is an appeal from the highest common law tribunal, the Supreme Court. By the 20th article of Lord Sydenham's instructions which were the constitution of Nova Scotia, if one of its Judges happen to be a Member of that Council, he is permitted to set and state the reasons which induced the judgment appealed from, but he is not to Vote, and, if he is not a Member of Council, he is not entitled to be present. What would His Excellency and the Council say to the Supreme Court if the latter directed that the former should be advised by its Chief Justice and be bound by his advice, or if that Court said to the Appellant you shall not have an appeal at all unless we are satisfied with the regularity of your proceedings to obtain such appeal; unless you file your Petition within a certain time which we shall limit, and pay such a sum as we shall direct. Would the appellate tribunal regard these proceedings for a single moment? or have the Judges of that high Court (from whose judgments no appeals within the last half century have been preferred to the Executive Council and to England, two or three,) ever made such orders and regulations, or have the Inferior Courts of common Pleas ever done the like on appeals from their jurisdiction to the Supreme court?

The difference between re-hearings before the same Judge and appeals to the superior Judges in the same Court before the final appeal to the House of Lords, is well illustrated by a case much litigated more than a century ago, by one of the noble ancestors of His Excellency. The learned Council here referred to the case of Lady Falkland against the Executors of the Duke of Albemarle, which case was heard and afterwards re-heard before the Master of the Rolls; then re-heard by appeal before the Lord Chancellor Somers, and again before Lord Keeper Wright. Lady Falkland being dissatisfied with all those decisions against her, appealed to the House of Lords, and prevailed. Her original claim was sustained, and the decrees made by the Judges in the Court below reversed. This case itself not only shews the decision of the Lords to be right, but is a strong instance of the benefit to the suitor, of appeal. This is only one of the many cases which occur in the books. Such were the rights of parties in those days—limited and modified in those modern times, but not so altered as to deprive a party of a substantial appeal. There is nothing in the law and practice of England to sustain the proposition; there is less in those of this Province; for it would be shewn by both that it is expressly negatived. It is not very material to this enquiry to go back to the early history of the Province. It is sufficient that we know that the Governor of it, constituted Chancellor by the delivery of its great seal up to the year 1816, did the duties of the office, assisted by the Chief Justice and Judges of the Supreme Court. About that period the late Chief Justice Blowers was constituted Master of the Rolls by the late Earl of Dalhousie, but this act being disapproved by the Home Government, on the ground that a Judge ought not, at the same time, to hold two judicial offices, matters reverted to the state in which they were anterior to that appointment. The Governor came down assisted as before, until the year 1826, when Mr. Robie was appointed Master of the Rolls by his late Majesty George IV. He held the office until 1834, and, upon his resignation, his Honor the present Master of the Rolls became its incumbent. The Legislature, in the preamble of the act by which it granted a salary to the office, stated that the Master of the Rolls was appointed to aid his Excellency the Lieut. Governor in performing the various duties in the Court of Chancery. This act passed in 1826, and another act, passed in 1833, on the 20th of April, for regulating the practice thereof. To the 1st, 2d, and 6th sections of the latter act, his Excellency's attention would thereafter be more particularly turned. While Mr. Robie held the office, (for there were no appeals from his decisions after 20th April, 1833) he sometimes, and more generally sate by himself, making decrees and doing the ordinary business of the Court; and sometimes, but very rarely, sate with the Chancellor when the hearing was an original one, on the part of the Chancellor. It was thus the cause of King vs. Lawson was heard in 1831. In the same year, and after that just mentioned, the case of Higgins vs. Gordon, et al, Executors of Higgins was heard by appeal from the decree of the Master of the Rolls; and then, on heaving the appeal and making the decree, affirming the previous decision of the Master of the Rolls, Sir Peregrine Maitland was assisted by the Honorable gentleman sitting on the left of his Excellency, the Chief Justice of the Province, as is recited in such decree.

Several causes had been heard since 1834. Read and Seaman in November, 1835, before Sir Colin Campbell and Judge Bliss; Marison vs. Reynolds, by Sir Colin Campbell, assisted by the Chief Justice; Collins and Tremain in 1836, by Sir Colin Campbell, assisted by Judge Hill. All these were original hearings, the

Master of the Rolls having been concerned in them while at the Bar, but in the year 1838, the cause of Wentworth vs. Fleigher was heard by appeal from the decree of the Master of the Rolls, and his decree was reversed by the Chancellor, assisted on the hearing by the Chief Justice and Judge Bliss. The appeal in this case was preferred before the Master of the Rolls went to England, and allowed by Sir Colin Campbell, but no such limitation was imposed upon the Chancellor as is to be found in the order of the 19th October, of which the defendant complains; and although the appeal was heard in his absence, the decree was not signed by His Excellency till after his return, and after (if he was correctly informed,) the Master of the Rolls had strenuously objected to his signing it, this decree was carried into effect. During all these proceedings, the Solicitor General, Mr. Harris, and Mr. Pryor had uninterrupted and frequent access to, and personal interviews with the Chancellor on the subject of such appeal. On the present occasion, (the learned Counsel said) peculiar considerations had induced him to refrain from seeing his Excellency at all; yet his having merely presented a petition to his Excellency's late lamented Private Secretary, praying that he might be heard, was held by the Master of the Rolls to be disrespectful, and a contempt for which, it had been published to the world, he ought to have been fined. He knew of no rule of English law, and no principle or practice, that restrained the poorest man in England, from going in person to the Lord Chancellor, and preferring his petition or complaint; as little was he acquainted with any rule by which such intercourse was restrained in this country.

When his Excellency himself (under the statute which authorized him to make orders, and which indeed he could do by his own inherent powers as Chancellor,) should make such a prohibitory order, he should bow in humble submission to it; but till then, no terrors of fine or imprisonment should prevent him from doing his duty to his client, to the Bar, to his country, and to himself. And he had hoped that his age and standing at the bar; for he was one of its oldest members; and his rank in the government and councils of the country, might have spared him the reproach of being wilfully disrespectful to one of the highest of its Judges; to whose ability and learning he had often, in the Legislature and out of it, borne willing testimony. For in what situation were suitors and practitioners placed, who honestly entertained opinions adverse to that of his Honor, as to the extent of his jurisdiction? Until within these fifteen months or so, the Registrar of the Court had had, on matters of appeal, personal intercourse with the Chancellor, and at that time not by a formal rule of Court, (to be signed by his Excellency, without whose signature he contended it was not valid, as it was to abrogate the English rules established by the act of 1833,) but by merely declaring in Court that all papers, as well on appeal as otherwise, should be sent through his Honor. Now in the present case his Honor is of opinion that the appeal is substantially a re-hearing by the Master of the Rolls only; on the contrary, he (Mr Stewart) contended that it was a substantial appeal to another mind or minds. To obtain this, a petition for an appeal is preferred. The Master of the Rolls directs that it shall be moved in the Rolls Court; this is done; the deposit is paid; the signature of Counsel obtained; all is regular; the appeal is granted, but how? to the Chancellor, "who is to be advised by His Honor." The opinion thus recorded, his Honor doubtless conscientiously entertains; he (the learned Counsel) conscientiously entertained a different one; but the Master of the Rolls would be wanting to himself, were he to advise his Excellency to hear the appeal otherwise than as he had directed that it should be heard. To present a further petition through the ordinary channel, would not therefore be so likely to be effectual, as to do so through the Chancellor in person, or through his Secretary, agreeably to the practice in England; the Registrar refuses; what is left to the suitor, to his counsel and solicitor? Could they act more delicately than they did? They abstain from all personal applications; they prefer a humble petition through the Secretary, and this is declared to be a grave contempt. To prefer a petition to the Chancellor a contempt!!

CHANCERY PROCEEDINGS OF YESTERDAY.

His Honor the Master of the Rolls, on opening the Court on Monday, addressed the Bar at some length, with reference to the proceedings in the Council Chamber on Thursday last. His Honor, in the course of his address, observed, that a new discovery had lately been made; but whether it was that of the philosopher's stone or a mare's nest, he would not pretend to say. He desired the Bar to understand distinctly, that the Court in which he presided was the Court of Chancery, and not the Rolls Court; that he knew not, and never heard of, such a Court as the Rolls Court\* existing in this Province as a Court distinct from the high Court of Chan-

\* We have been informed by a legal friend, that when His Honor first took his seat on the Bench in 1834, he announced to the Bar that the Rolls Court would be held regularly in the Court House in the Province Building on 1st and 3d Mondays in every month, until further order, and that an entry of such intimation appears in the Chancery Minute Book, in the handwriting of His Honor.

cery, or elsewhere out of England: that he was Judge of the Court of Chancery, and his directions must be obeyed. He read several letters and acts of Assembly, upon which he commented, and said it was plain that the Chancellor could advise with no other person than the Master of the Rolls, except he was sick or absent from the Province. That there were many cases in P. Williams's reports, where the Lord Chancellor was attended by the Judges, and in some it was mentioned the order in which they sat, namely: the Chief Justice of the King's Bench on the right of the Lord Chancellor, and the other Judges in the order they sat in the Exchequer Chamber, but in modern times they did not sit with the Chancellor.

His Honor said, he highly respected the Judges of the Supreme Court, in their proper office, and should, when it was necessary, send to them to try an issue of fact, or to obtain their opinion upon a question of law. His Honor also observed, that Counsel should always act properly and respectfully towards the Court,—and whether as a Judge sitting by himself, or with his Excellency the Chancellor, Counsel ought to behave with propriety. That the Counsel who argued the case on Thursday ought to have attended to his directions, and addressed his arguments to the only point which was for consideration; and in not doing so, his conduct was ungentlemanlike and disrespectful in the extreme. That he begged the Bar to understand, that no papers were to be taken or sent to the Chancellor, but were to be left with the Registrar, and that he would take care to enforce his directions against any gentleman who disobeyed them. That the Counsel who argued on Thursday, who spoke of everything but the point for consideration, had talked of repeating what had been done, undeterred by the terrors of fine and imprisonment, but that whatever might be the age or standing at the Bar, or talents or rank of any gentleman, he should punish him and all others who disobeyed that order, which he said required no further signature, and which he again declared as the rule of the Court. The Master of the Rolls made many further observations, which we regret we cannot report at length in our present number, for want of space and time.

The Hon. A. Stewart was at the Bar; but was not in his professional costume. Mr. Jas. Stewart was also present, attired professionally, but neither made any observation or reply to his Honor, or otherwise.

Halifax Novasection, December 9.  
Chancery.—We noticed the case, Craig vs. Ross, some weeks ago, in which the Master of the Rolls, and the Hon. A. Stewart were so directly at variance. On Monday last, in the Chancery Court, James Stewart, Esq. brother of the Hon. A. Stewart, and associated with him in the case alluded to, rose to address the Court. The Master of the Rolls interrupted the learned Counsel, stating that he, Mr. Stewart, was instrumental in the publication of libels which had appeared against the Court and the Master of the Rolls, and that he would not hear him until satisfied on the subject. Mr. Stewart stated that he was ready to proceed for his client, but if he could not get a hearing he would desist.

European News.

MISCELLANEOUS.

This Year's Harvest.—We are now thoroughly convinced that we have ourselves under estimated the probable supply of corn from this harvest and that all kinds of white corn will fall more than fifteen per cent from the average quotations of the previous six months. Under such circumstances there can be no drain of gold and silver for the purchase of foreign corn after the present inflowing tide has spent its force. The speculation is no doubt embarrassing to the Bank as well as being injurious to those engaged in it. We must briefly refer to some of the circumstances which have induced us to reduce our estimate of supply from this year's harvest, because any thing calculated to dissipate apprehension concerning the corn trade is of great importance—seeing its bearing on the foreign exchanges. We have received letters this morning from Scotland and the north of England, which say that more than one half of the corn throughout that part of the kingdom has been secured in pretty fair condition, that very little injury has been done by the wet weather; that the crops on the whole will be equal to a full average supply; one letter from a well informed quarter says above an average and that prices must consequently be low. We have also assumed the supply from the extreme western counties of England—all lying beyond Wiltshire—much lower than the yield, now that is becoming better ascertained, could justify. These counties will furnish more than an average quantity, and taking all the three kinds of white corn into account, the supply will be in excess of that derived from the harvest of 1839, by more than 25 per cent in measurement, and the quality incomparably superior to it.—Circularly to Bankers.

Niger Expedition.—Many of the

friends of Africa, looking with deep interest to the vast importance of the Niger Expedition in its contemplated bearing on the utter extinction of the Slave Trade, and the Civilization and Evangelization of Africa; and convinced that the best devised measures for the accomplishment of these objects, can be rendered effectual by the blessing of Almighty God, have determined to unite in special prayer for the bestowal of the blessing on Sunday next, the 8th of November. They take this method of soliciting their fellow Christians throughout the country to unite with them in prayer to God for his favor, protection and blessing on this national effort, that the Niger expedition may well and speedily lay the foundation of measures which that blessing being vouchsafed, will eventually issue in the utter extinction of the Slave Trade, and the full participation by Africa in the Gospel of Christ and all its concomitant blessings in which point of view this matter is regarded, that ardent philanthropist and powerful advocate of the negro race, Sir T. Buxton will appear from the following extract of a letter recently addressed him to a friend in London:—"pray not let us lose sight of this subject, general concert of prayer for the Niger Expedition.) 'Never was there a cause which required more the Divine blessing. The novelty of the attempt—the peculiar which attend it—and the mighty consequences, both temporal and spiritual, which may flow from it—all seem to you are lost unless you are going through your difficulties by Divine aid and encounter the obstacles enemies will oppose you, by the help of the Lord. Let British Christians then remember Africa and this momentous undertaking before 'The Throne of Grace' on the coming Lord's day, and that in connection with the sure promise of the Lord Jesus to his disciples—'Whoever will ask the Father, in my name, He will give it you.'

Rotatory Engine.—An engine upon this principle was tried last Wednesday in Leeds, in the presence of several engineers. Its enormous power in so small a compass, (the whole machinery, with the exception of the fly wheel, being contained in a box 23 inches in depth and 10 inches diameter,) surprised every present; the speed was tremendous, working from 600 to 700 revolutions per minute. Its power was tested by placing breaks on the fly wheel, which was done to the extent that the shaft was actually twisted in two pieces, but no accident occurred. It is intention of the inventor to apply the machine to propel carriages on common roads, for which purpose it appears admirably adapted; likewise for the purpose of marine navigation, where the small quantity of room it requires a material consideration; in short, it will answer all the purposes wherein steam is required, and the expense will be considerably abridged. The inventor is Joseph Briggs, watchmaker of this town. Leeds Intelligencer.

Patent Steam Engine.—During the last three weeks we have been working our printing machines, made by Napier & London, by a three horse power patent steam engine, the first of the kind manufactured at the steam carriage works of Messrs. J. W. Rogers & Co., Newcomen Bridges Mills, North Strand, patented by Sir James Anderson, Bart., the boiler being on the same principle as that used in Sir James's steam carriage for common roads. A plate of cast iron, four feet long by two feet broad, placed upon a frame of timber so as to allow a free passage of air underneath, supports the entire engine and boiler occupying altogether a space of four feet by two feet in the machine room. The boiler is not set in brick, but appears like a stove, tastefully ornamented on top by an open scroll work, and the engine, which is supported by a handsome framing, has neither a beam or extraneous work of any kind, and is so simple in its construction, that it can scarcely be out of order. When we describe an engine of three horse power, occupying a space on which we write, the vast advantage to many on that score alone will be manifest, but its economy is even more remarkable; from four to six pence covers all expenses of fuel for each publication, which occupies about two hours and a half. It is fully capable of striking off from fifty to sixty copies per minute, we may add the extraordinary fact—that the steam is got up, and the engine in motion, within fifteen minutes from the time of lighting the fire. We are anxious to give publicity to this, knowing that many persons are deterred from the use of steam power in consequence of the great space occupied. A machine like this can be erected in any room, board-

or otherwise, a fact of great advantage—Dublin, O. The English experiment have been these shells to them. It is very who were died suddenly. The Duke of Wednesday's bridge was quiescent. Mr. Bar of Parliament beginning. The establishment Castle last week. Ward for English gentleman. Vesuvius Naples 4th. tions had been along crosses the tiers of States, and days been smoke, s that an expected.

Open Mechanic erected and opened. Dr. Ges the first ously sell the com interesting together sexes, a room of 1000, (a influent gentlem and the Clergy of note by the their respect and add ance, w ing dec the vari other v of the feeling red up style fa tation; of his fo rth he all who in the ner ha Perley on Fri Blatch on 'Se the bu of the Sain her Ma certain modifi the fir Institu the cor creasin platio source school in whi chanic ciate made and o buildi ments comm will a their them partic how d should and Dr G matte Ther spaci —to— make Havi gin, Mecl