marks of the learned Judges reported in the text. So we find not only their champion condemning the Judges of this tribunal "for the "diversity of opinions expressed on points "which are left undetermined by the Court," but two of the learned members of the Court expressed themselves in the same sense on a celebrated occasion; and it may be added that it has been a controverted point among lawyers of the several provinces ever since, whether the opinion expressed by the majority of the Supreme Court on that occasion is of any binding authority.

We apologize to our readers for taking up space which might be devoted to more useful purposes, but we think we have shown that the Supreme Court in expressing, through Mr. Justice Gwynne, the opinion referred to, was really in a remarkable manner, (if its recent opinion be correct) pronouncing its own condemnation. It is not necessary to go further. We see that the champion above referred to charges "R" with disrespect. We leave our contributors, within reasonable limits, to be judges of their own style, and "R" does not need any defence on that head, but it might be added that the quotations from the *Law Journal*, (not, be it remembered, from remarks of correspondents, but from editorial articles) show that the champion can hardly be taken as a model of suavity. Other even more contemptuous expressions abound. For example, referring (in April, 1879) to the proposed abolition of the Supreme Court, the champion said:

"The profession, as a whole, have not that "confidence in it which should appertain to "a court of final resort; for example, there is "hardly a lawyer, in this Province at least, who "would not, on a question of Ontario law, prefer "the opinion of our Court of Appeal, *or even* "*of one of our Superior Courts.* * * * "It is also manifest, that the Court, so far, "has been a disappointment."

And in March, 1880, it discourses in this respectful strain:—

"There are some who think the best way to "improve the Supreme Court would be to im- "prove it off of (*sic*) the face of the earth. We "trust some less heroic remedy may be found, "though the Court certainly has, *both collectively and through some of its members, on several occasions and in various unnecessary ways, endeavoured to commit suicide.*"

## NOTES OF CASES.

### COURT OF REVIEW.

ONTREAL, March 10, 1883.

TORRANCE, J., DOHERTY, J., & RAINVILLE, J.

McCRAKEN *et al.* v. LOGUE.

*Jurisdiction—Appointment of Sequestrator.*

*A judgment in Chambers appointing a sequestrator is in the nature of a final judgment, and a review may be had upon such judgment.*

*A sequestrator should not be appointed when one of the parties has title and is in possession; and accordingly, where the defendant was in possession of certain lots under location tickets, and an action was brought to have it declared that the letters patent had been obtained by fraud, &c., an application by the plaintiff for the appointment of a sequestrator, pending the suit, should be refused.*

This was an appeal from a judgment of Mr. Justice Macdougall, of the Ottawa District, of date 11th January, ordering the appointment of a sequestrator.

The complaint of the plaintiffs set forth that, in 1876, a license to cut timber on certain lots in the township of Egan was granted to one Henry Atkinson to the exclusion of all others; that on the 10th of October, 1878, Atkinson transferred his rights under said license to plaintiffs; that defendant, in order to deprive plaintiffs of a portion of their rights, obtained the issue of location tickets in favour of Hector Charbonneau, Joseph Laverdure and Joseph Beauregard, for lots 34, 35 and 36 in the 1st and 2nd ranges of Eagle River, in said township; that said persons had no intention permanently to occupy said lots or to obtain letters patent for the same in their favour; that in April and May, 1879, they transferred their rights to defendant, who obtained in his favour letters patent from the Crown on the 17th January, 1882; that the Crown agent refused to renew the licenses as to said lots in favour of plaintiffs; that in the autumn of 1882, defendant cut a quantity of pine logs on said lots, of the value of $2,200; that defendant had obtained the issue of said letters patent by fraud and misrepresentation, as well as the issue of the location tickets to the said Hector Charbonneau and others, and obtaining from them said transfers; that there were upon said lots quantities of pine of the value of $6,200. Plaintiffs