

In New Brunswick its principles and mode of procedure remain as distinct as before the amalgamation with the Courts of Common Law, the change simply being that the Supreme Court has a Common Law side, and an Equity side. The same Judge may sit in Equity to-day and at Common Law to-morrow, and his decision at Common Law to-day be restrained by his decision in Equity to-morrow.

He has no power, if, in the progress of the cause at Common Law, it is found that the party would have a remedy or relief in Equity, to apply the remedy or give the relief, it must be sought for on the Equity side of the Court.

But though equitable defences in actions at Common Law are not provided for as in Ontario and Nova Scotia, yet, by section 26 of the same Act, which made the amalgamation, it is declared, "That whenever a demurrer will lie to a Bill for Sub. chap. 2, 2nd "want of equity, the Judge on the argument may, if the facts warrant, vol. Revis'd. Stats. "instead of dismissing the Bill, order the remedy as at Common Law, Page 83. "or he may make such other order as to proceeding therein on the "Common Law side of the Supreme Court, and for the trial of the same on such terms as "to payments of costs or otherwise, as may appear to him just."

In Nova Scotia the fusion was more complete. By chap. 123, Rev'd. Stats. of Nova Scotia, 3rd series, it is enacted that the Supreme Court shall have, within the Province, the same powers as are exercised by the Courts of Queen's Bench, Common Pleas, Chancery and Exchequer in England. By chap. 124, "Of proceedings in Equity," it was enacted

—Rev'd. Stat. 431—"that in that chapter the term "Supreme Court," should Sect. 1. "include the Equity Judge and his Courts; the term "the Court," means the "Court of the Equity Judge, except otherwise expressed or clearly indicated; and the "jurisdiction expressed to be transferred to and to be exercised by the Supreme Court "means the jurisdiction and powers of the Judge in Equity, alone, or with the associated "Judges, and of the Judges of the Supreme Court on Circuit, and of the Supreme Court "Bench on appeals."

"In the illness or absence of the Equity Judge, or in cases requiring attention in the "country, the duties imposed on him shall be exercised by the other Judges, as the Sect. 2. "case may require."

"The Supreme Court has jurisdiction in all cases formerly cognizable by the Court "of Chancery, and exercises the like powers and applies the same principles of Sect. 3. "equity as justice may require, and as has formerly been administered in that "Court. In all cases in the Supreme Court in which matters of Law and Equity arise, "the Court before which they come for consideration, trial, or hearing, shall have power "to investigate and determine both the matters of Law and Equity, or either, as may be "necessary for the complete adjudication and decision of the whole matter according to "right and justice, and to order such proceedings as may be expedient and proper; and "all writs issuable out of Chancery now issue out of the Supreme Court.

"The plaintiff may unite several causes of action in the same writ, whether they be "such as have heretofore been denominated legal or equitable, or both. The causes Sect. 7. "of action so united must accrue in the same right, and affect all the parties to the "action, and must not require different places of trial."

When applicable, the practice of the Supreme Court was to be observed, when not, the practice of the English Court of Chancery, and by section 10, "In the Sect. 10. "final decision of cases on equity principles, the Court shall give judgment "according as the very right of the cause and matter in Law shall appear to them, so as "to afford a complete remedy 'upon equitable principles applicable' to the case. And in Sect. 43. "Sect. 43, it is declared lawful for the 'plaintiff in replevin or a defendant in "any cause in the Supreme Court, in which, if judgment were obtained, he "would be entitled to relief against such judgment, on equitable grounds, to plead the "facts which would entitle him to such relief." And the plaintiff may reply an avoidance of these facts on equitable grounds. And in ejectment, an equitable defence may be set up.

Immediately following this Act (by chapter 125), provision was, notwithstanding,

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