SUITS "BENEATH THE DIGNITY OF THE COURT."

(*Second Paper.*)

We now proceed to consider the doctrine and practice in Equity touching suits which are deemed *infra dignitatem curiæ*. For all practical purposes, our investigations may be limited by the Ordinances of Lord Bacon, promulgated on the 29th of January, 1618, which have been declared to be in force in this Province. By Ord. 15 it is declared that "all suits under the value of ten pounds are regularly to be dismissed;" and by Ord. 60, "where any suit appeareth upon the bill to be of the natures which are regularly to be dismissed according to the fifteenth ordinance, such matter is to be set forth by way of demurrer." The present general order in force in England provides as follows: "Every suit, the subject matter of which is under the value of £10, shall be dismissed, unless it be instituted to establish a general right, or unless there be some other special circumstance which, in the opinion of the Court, shall make it reasonable that such suit should be retained:" G. O. ix., rule 1.

After the recognition of the general rule that the insignificance of the subject-matter was a reason for the Court declining jurisdiction, several exceptions were soon established. These may be classified under three heads: (1) Where the suit was for a charity, or for the benefit of the poor, the smallness of the sum involved was no valid objection: *Parrott* v. *Pawlett*, Cary R., 147, 1 Eq. Ca. Abr., 75. (2) Where the bill was to establish a *right*. Thus in *Cocks* v. *Foley*, 1 Vern. 359, a bill for establishing a right to ancient quit-rents of very small value was allowed to be filed. In a very recent case, *Hoskins* v. *Holland*, 23 W. R., 477, the Master of the Rolls had occasion to consider this exception under the English general order. He said that a suit to establish a general right within the meaning of the order was a suit which would determine some question for all time. He instanced a tithe suit, and also referred to an unreported case where the sum at stake was twopence; but the Court gave relief on the ground that the result was to establish the general right of the plaintiffs to a toll of that amount. He held that the bill before him, being one filed by the assignee of a policy of marine insurance to recover from one of the underwriters the premium of £3, was not such a suit, as it would establish nothing against the other underwriters. (3) It would, probably, be held under the English general order that the want of jurisdiction in any other court would be such a special circumstance as would justify the interposition of the Court of Chancery. There is no decision to this effect under that order; but such, we have seen, was the well-established and highly reasonable rule at law, recognised in the modern case of *Stutton* v. *Barment*, 3 Exch. 834. And such appears to have been the practice under Lord Bacon's ordinance. In *Eastcourt* v. *Tanner*, Cary R., 106, the suit was for a sum under £10, and it was stayed upon it appearing that both parties dwelt within the jurisdiction of the marches of Wales.

The Court refused to interfere by way of injunction and give an account of profits in cases of literary piracy, but left the plaintiff to his remedy by way of damages at law: *Bailey* v. *Taylor*, 1 R. & M., 73; *Whittingham* v. *Wooler*, 2 Swanst., 428. So a bill to interplead by a tenant failed when the whole rent actually due was less than £10: *Smith* v. *Target*, 2 Anst., 529. In these insignificant cases the Court is wont to interpose in various ways: either upon demurrer, when the facts appear on the face of the bill, or at the hearing, if the facts do not so appear, by dismissal of the bill (*Bruce* v. *Taylor*, 2 Atk.