

PREFACE.

The difficulty of ascertaining what the Practice of the Court of Equity now is in this Province, has induced me to offer to the Profession the following collection of the Rules of Court and Statutes relating thereto, in Pamphlet form. The extensive field of enquiry left open by the second Section of Sub-Chapter 1, of 17 Vic. c. 18, precludes my attempting an analysis; and I have therefore given the Rules in extenso, as made from time to time, together with the Acts of Assembly establishing the "Supreme Court in Equity," and regulating its Practice. I have also, for the convenience of reference, included portions of the repealed Acts of Assembly.

As the enactments of the 17th Vic. c. 18, were principally taken from, and are similar in terms to, the Imperial Statutes 15 and 16 Vic. c. 80, "The Master in Chancery abolition Act;" and 15 and 16 Vic. c. 86, "The improvement of Jurisdiction of Equity Act," I have added some decisions of the English Courts under these Statutes, and the consolidated Orders of 1860 where they have appeared to me to be applicable.

In reference to the construction of the 17th Vic. c. 18, by which a Judge may be called upon in any part of the Province where he may chance to be, to entertain or decide matters connected with suits in Court, I have ventured to note doubts entertained by some of the Profession.

I must express my full conviction to the opinion which seems to be gaining ground with the Profession, that the abolition of the Court of Chancery, transferring its jurisdiction to the Supreme Court, and fastening its duties upon the Common Law Judges, was not only a mistake, but inexpedient and prejudicial to the interests alike of suitors and the public at large, and not compatible with the increasing duties and labours of the Common Law Judges.

In 1841, when the Equity jurisdiction of the Court of Exchequer was transferred to the Court of Chancery in England, two additional Vice Chancellors were appointed, and since that time two more Equity Judges, Lords Justices, have been created.

I have included in this collection the Rules of the Supreme Court made since the publication in 1847 by Mr. Allen, now His Honor Mr. Justice Allen.

G. BOTSFORD.

Fredericton, November, 1865.