eminent Judges, and yet almost all of them have acted as Judges in Courts where not only Law and Equity, but Admiralty Law, have been thus united; and the union of the two former powers extends to a very large majority of the State Courts. In 4 Kent's Coms. 163, Note (C), it is remarked that there are only four States which have Courts of Equity separate from the Supreme or Circuit Courts.

Even in England, where there are not less than seven Equity Judges, and where Courts of Appeal abound, the union of the Court of Chancery with the Courts of Common Law was, at the time of the last Report of the Chancery Commissioners, under deliberation, and only postponed as the subject of further consideration.

Mr. Justice Story in his first Volume on Equity, referring to one of the English Superior Courts, observes that "in some of the States of the Union distinct Courts of Equity are established; in others the powers are exercised concurrently with Common Law Jurisdiction by the same Tribunal, being at once a Court of Law and a Court of Equity, somewhat analagous to the Court of Exchequer in England." And since the passing of a Statute towards the close of the Reign of George III., authorizing the Chief Baron of this Court, or one of the assistant Justices, to sit alone and hear causes in Equity, with an appeal to the House of Lords, our proposed change bears a still closer resemblance to the practice of the Exchequer, a Court having both a Common Law and Equity side, with at the same time a more urgent necessity for the change, and with a greater advantage as respects this country, in having an appeal to the full Bench of Judges.

We have not overlooked the difficulties which have been urged against this amalgamation, as to the sittings of the Judges, and intermingling Jury trials with Equity hearings. But we trust we have been enabled to meet these difficulties by distinctly defining the powers of the single Judge, and those of the Court, which we have endeavoured to effect by always requiring one Judge to act where the Master of the Rolls now acts, and the Court to adjudicate where the Chancellor is now called upon when he sits as Judge in Appeal. Where a Jury is to be summoned for any Common Law interlocutory enquiry, the time and place of its sitting must necessarily be for the discretion of the Judge who requires the aid of a Jury to assist him in giving Equity; and when the case is to be heard by evidence taken at the hearing in open Court, the same may be done as pointed out more at large in our accompanying details, either at one of the monthly sittings at Fredericton, or at any of the Nisi Prius Courts where the greatest number of the witnesses reside, or the Court shall direct. Whether evidence is to be taken as now practised before a Master, or in open Court, will be decided when the points to be proved are settled by the Judge as hereinafter noticed; and if a case is to be heard at a Nisi Prius Court, it is to be after the Jury causes are over, when the Judge after a full hearing may at once decide, or take time to do so in all important cases, as at present.

We regret the inconvenience this change may occasion to the present Judges of the two Courts, in obliging them to turn their attention more directly to departments of jurisprudence, to which, since reaching the Bench, they have been unaccustomed; but while in this, and in some other respects hereafter adverted to, their duties will be increased, we believe from the various changes we have introduced in the practice of both Law and Equity, greatly simplifying, and in many instances entirely discontinuing the use of many portions of it, those duties will be in those respects diminished. Nor are we without the hope that from the strength and support which will be experienced by a consultation and judgment of five learned men, with the increasing confidence of the profession and the country, they will ere long be satisfied with this alteration.

We have maturely considered the important question which, in England, has of late occupied so much attention, that of abolishing the Office of Master in Chancery, and should have been prepared to imitate the example of that Country; but from the vast difference between their judiciary system and ours, we have been unable to recommend any change for the better without a corresponding change in that department. It is to be remembered that in the Court of Equity alone in the Mother Country there are seven Judges, who under the new system, with each a Chief Clerk having powers corresponding generally to those of a Master, and a second Clerk, are able to accomplish all that was formerly done by the Masters, besides taking the evidence in Causes, in order that they may form a better judgment, as in Common Law Courts, of the value of the testimony.

Although much of this evidence will by our plan be taken before the Judge on the Hearing, with all the advantage of a decision on what he himself hears and sees, it would we think be quite impossible for the five Judges to perform any more duties; and we cannot see that we can be better served in those cases in which Masters will still be required, than by Gentlemen already well accustomed to their business. At the same time it will be seen the Court will have power to order any Barrister, if no Master live convenient, or for other good cause, to report on certain matters, and also scientific persons when necessary; besides it will not be possible with the proposed changes unnecessarily to protract matters; nor has the evil ever existed in this country, although the system is the same, to any thing like the extent prevailing in England.

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