—such as the Conqueror, who appears mounted; and Queen Bess, whose expanse of stiff petticoat modestly leaves the position of her knees to the imagination.

(To be continued.)

ONTARIO REPORTS.

PRACTICE COURT.

(Reported by Henry O'Brien, Esq., *Barrister-at-Law, Reporter in Practice Court and Chambers.)*

Ross et al. v. Grange.

Practice Court—No jurisdiction to rescind Chamber order.

Held, 1. That a judge sitting in Practice Court has not power in this country to set aside an order made in Chambers; an appeal from such order lies only to the Court *in banc*.
2. That if there be any objection to the mode of compliance with an order, application should be made to the judge who made it (following *Rennie* v. *Beresford et al.*, 3 D. & L. 467.)

[Practice Court, M. T., 1867.]

The plaintiff obtained a rule *nisi* in this Court as follows:

"Upon reading the order made in this cause on the 5th day of October, A.D. 1866, by the Honourable Mr. Justice John Wilson (a copy of which order is filed on this application), setting aside the judgment on demurrer signed in this cause, and giving the defendant leave to plead a plea, it is ordered that the defendant do, upon notice to be given to him or his attorney of this rule, shew cause why the said order of October 5th, 1866, and all proceedings taken thereunder, should not be set aside or rescinded with costs, on the ground that a judge in Chambers had no power to set aside a judgment on demurrer regularly signed in pursuance of a rule of court in that behalf, and that there could be no amendment of a pleading, as ordered in said order, after rule of Court giving judgment on demurrer, and not reserving leave to amend; and why all the proceedings after such order should not be set aside, and why the amendment pleaded should not be set aside with costs, on the ground that no leave was given by the order to defendant to amend, and that his only power was to add a plea."

C. Robinson, Q. C. (*Palmer* with him) shewed cause and made the following preliminary objections:

1. That the rule does not refer to the affidavits as having been previously filed or used in Chambers.

2. That the only affidavits filed on application for the rule are those of the plaintiff, and not *all* the affidavits used in Chambers, and the practice requires that all the material used in Chambers should be produced on moving against the rule.—Citing Ch. Pr. 1589, 1610, 1611; *Small* v. *Eccles*, 1 U. C. L. J., N. S., 122; *Needham* v. *Bristow*, 1 Dowl. N. S. 700; *Bennett* v. *Benham*, 15 C. B. N. S. 616; *Dickey* v. *Mulholland*, 2 Prac. Rep. 69; *Mitchell* v. *Hardi·g*, 5 L.T. N.S. 348; *Warman* v. *Halahan*, 30 L. J. Q. B. 48; *Hall* v. *Featherstone*, 4 Jur. N. S. 813.

3. That a judge sitting in Practice Court has no power to set aside an order made by a judge in Chambers. There is no appeal from Chambers to Practice Court. The practice here is regulated by statute (Con. Stat. U. C. cap. 10, secs. 9, 10), and differs in that respect from the practice in England.

As to costs, see *Croft* v. *Lumley*, 25 L. J. Q. B. 81; *Phillips* v. *Masson et al*, 9 U. C. Q. B. 28.

McMichael supported his rule, citing *King* v. *Meyers*, 5 Dowl. 686.

Morrison, J.—It was admitted at the bar that the objection here taken had been raised for the first time; that applications to rescind and reverse judges' orders had been frequently made in this Court without question, but as the want of jurisdiction is now urged it becomes necessary to see whether any authority is conferred upon the Practice Court to hear and determine an application of this nature.

The various writers of the books of practice say that the jurisdiction of a judge in Chambers is partly conferred by statute, and partly has grown up by immemorial usage, the origin being obscure. In England the statutes 11 Geo. IV. and 1 Wm. IV. cap. 70, and 1 & 2 Vic. cap. 45, give other judges of the respective courts there, when sitting in Chambers, a general and concurrent jurisdiction in the transaction of business, the same as if they were judges of the court in which the business or action is pending, the language used being similar and to the like effect as that used in the 10th section of our Con. Stat. U. C. cap. 10, with the exception that to the end of the 10th section of our Act, these words are added: "subject to the right of appeal to, and of revision by the full court in which the matter may be depending."

Previous to the establishment of the Bail Court in England under the 1 Wm. IV., already cited, (a court corresponding to our Practice Court) it is quite clear that if parties were dissatisfied with the order of a judge made in Chambers, they had to apply to the Court *in banc* either to rescind or review it; and since the 1 Wm. IV. it has been held in England that a single sitting in the Bail Court could reverse the decision of a judge in Chambers. I refer to the case of *King* v. *Meyers*, 5 Dowl. 686. It was there contended that it was not competent for a judge sitting in the Bail Court to reverse the decision of a judge at Chambers, when Coleridge, J., said "it was the continual practice of that Court to entertain such motions, and that the judges would be extremely sorry if anything which passed at Chambers could not be reversed in the Bail Court."

Upon the strength of that authority, I would have held that this court had authority to deal with this motion, were it not for the proviso already referred to, appended to sec. 10 of our act, providing that Chambers business transactions by a single judge out of Court are subject to the right of appeal to and of review by the *full* court in which the matter may be depending.

The Legislature by the previous section (sec. 9) established the Practice Court with very general powers, and I think we may presume that their attention was drawn to the point, and when enacting the provisions respecting the transacting of business in Chambers, they reserved the right of reviewing a judge's order to the full court, using the word "full" for the purpose of distinguishing the court, or the court *in banc*,