whether vested in a Louis XIV., in a Venetian Council of Ten, or in a Long Parliament. And this may be one of the meanings of Lord Burleigh's apothegm, "That England can never be ruined but by a parlia-"ment." "Public liberty," says Blackstone (2 Stephen Blackstone, 493) "cannot subsist long in any State unless the administration of common "justice be in some degree separated both from the Legislative and the "Executive power." And Chief Justice Harrison in his luminous judgment in Leprohon's case insists on the importance of preserving the distinction (40 Upper Canada, 487).

As to the line of demarcation between the Legislature and the Executive it has been well observed by a distinguished writer (Doutre, Constitution Canada, page 104) that "in a constitutional Government the "Executive is merely the committee of management of the majority in "parliament." Differences of opinion, therefore, as to whether any particular exercise of authority belongs of right purely to the legislature or purely to the executive are not very likely to arise. And if any act of either should be called in question by the minority, as an encroachment on the other, the majority in parliament will generally sustain the action of their own committee, or be sustained by them, as the case may be. And this is especially probable in a single chamber constitution. But it is not necessary here to inquire into the boundaries between the functions of the legislature and of the executive. We shall endeavor, however, to distinguish to some extent the functions of the Legislature and of the Judiciary, and in the first place consider the subject of procedure, which, in the case of a Superior Court, is generally allowed to be under the control of that Court. But then, what is procedure? what is not?

It is clear that a Court of Justice ought not, under color of regulating practice, or procedure, either to make a new law, or repeal an old law, affecting a suitor's rights in anything which may be the subject matter of a suit. But the forms, and the times, and the proofs to be observed and adduced in claiming those rights are matters for the Court to determine; unless the power be taken away. These constitute, I think, what may be called the procedure of the Court. Even such a matter as the limitation of actions in point of time is part of the *modus procedendi* (Story's Conflict of Laws, page 577, section 99, and the authorities there quoted). So is evidence (Taylor's Evidence, section 4i). And as to moulding the commencement of actions, that was so completely in the hands of the Courts, that each had its own forms of writs; and it was in order to bring about uniformity of practice that the Imperial Parliament from time to time interfered in all these matters, as it had a right to do by virtue of its sovereign authority. But no legislature not sovereign can interfere with or alter the procedure in a Superior Court unless special authority to do so be conferred on it by the Sovereign, *i.e.*, here, by the Imperial Parliament. This power of Superior Courts is, I think, undoubted. It is called a common law right (3 Chitty, Statute 505, and the authorities there quoted, and *re* Story 8, Exch. Rep. 198). When the Imperial Parliament has intervened, it has generally been cautious not to cast doubt upon the power of the Court (as in the Common Law Procedure Act, 1852, chapter 76, section 223, *sub finem*). But this leaves the question still open, whether any particular matter is matter of procedure, or of substantive right or law.

The question was very clearly raised and discussed, but not, I think, decided, in Poyser *vs.* Minors, (7 L. R. App. Cases, page 331). There