

ture of this Province where he long resided, associates her Majesty more readily with its inhabitants, and we feel with your Excellency that her age and sex draw around her the affections of her subjects with deeper interest.

The unhappy events in the Canadas have excited our deep regret, but we find great satisfaction in the assurance that the traitorous attempts of designing men have been suppressed. We rejoice that the gallant militia of Upper Canada met in so distinguished a manner the emergency which called their loyalty and courage into exercise; and indulge with pleasure the hope which your Excellency affords us that the desperate band of wicked and misguided men on Navy Island, still found in opposition to the just authority of her Majesty and the Laws, being deprived, through the intervention of the Government of the United States, of foreign aid, may speedily be dispersed, and the miseries of violence and disorder be altogether stayed in our Sister Colonies.

We feel happy that the Addresses from numerous parts of the Province have conveyed to your Excellency declarations of unshaken loyalty to her Majesty's Person and Government; uniting in our body Members from various parts of the Province, we are enabled to assure your Excellency that such is the universal feeling of Nova Scotia, nor can we fail to use the present as a fit occasion to tender to her Majesty, in unison with her fellow subjects, our own expression of similar sentiments.

In the congratulations expressed by your Excellency on the late bountiful harvest which has diffused prosperity through the land, and is the just cause of the liveliest gratitude and devotion to the Almighty Giver of all our blessings, we most cordially unite with your Excellency.

The increase of the Revenue, and the faithful discharge of all demands upon the Treasury, are very gratifying.

In the application of our augmented resources, we shall not fail to be guided by your Excellency's recommendation for their economical expenditure. Agreeing as we entirely do in the sentiments expressed by your Excellency regarding the state of the militia, we shall readily adopt any measures that may be proper for the improvement of its discipline and the increase of its efficiency.

No effort on our part shall be wanting to ensure harmony in the performance of our Legislative labours, deeply convinced that conducted in such a spirit alone they will be beneficial to the Province, and your Excellency's administration of the Government enables us to rely with perfect confidence upon your co-operation in every measure which may advance the interests, and promote the peace, happiness, and prosperity of the people of Nova Scotia.

HIS EXCELLENCY'S REPLY.

Honourable Gentlemen of the Legislative Council,

I receive this Address with the highest satisfaction, and wish you to be assured that I have a just sense of your dutiful and loyal attachment to her Majesty's Person and Government, and I feel particularly gratified to find that my administration of this Government has enabled you to rely with confidence upon my co-operation in every measure that may advance the prosperity of Nova Scotia, which our Gracious Sovereign has been pleased to confide to my care.

HOUSE OF ASSEMBLY.

THURSDAY, FEBY. 8.—*The Judiciary.*

On this morning the House went into a committee of the whole to consider of the Judiciary, when a printed paper submitted by Mr Young, containing Six Resolutions, with

their recitals, and a number of suggestions to be submitted to the select Committee, was read by the Clerk. The first four Resolutions was as follows:

Whereas the mode of pleading and rules of practice of the Court of Chancery in this Province, the conditions imposed upon appeals, and the determination thereof by the Court as now constituted, and the mode of granting injunctions, and of ascertaining and trying facts therein, have been found in many respects inconvenient and injurious,—*Resolved therefore*, as the opinion of this House, that the principles and practice of the Court of Chancery in this Province should hereafter be modified and altered in these and other particulars, and that the Master of the Rolls be the Judge thereof, and continue to hold the said Court for the hearing and determination of Suits and Actions in equity causes, under such rules and modifications of the proceedings and practice therein as may be hereafter devised and adopted.

Resolved, as the opinion of this House, That the Court of Marriage and Divorce should hereafter be composed of five Commissioners, to be appointed by his Excellency the Lieutenant Governor to serve gratuitously and any three of them to form the said Court.

Resolved, as the opinion of this House, that all Petitions and Orders for the sale of the Real Estate of persons who have died insolvent, should hereafter be addressed to, and made by the Supreme Court in Term, or by any two Judges thereof at Chambers, who shall have power to direct such inquiries, and to order such proceedings in relation thereto, as shall satisfy them that such orders should pass; the Commissioners to be named by the Judges of Probate in the several Counties.

Resolved, That a Committee be appointed to consider under what guards and provisions the foregoing Resolutions can be most effectually and conveniently carried into practice, with power to send for persons and papers, to communicate with the Chief Justice and Judges of the Supreme Court and the Master of the Rolls, and to report by Bill or otherwise to this House during the present Session.

The 5th was to this effect—the preamble, being long, is omitted.

Resolved, therefore, as the opinion of this house, That the Inferior Courts should be altogether abolished, and that the causes now depending therein should be transferred to the Supreme Court.

The 6th went to appoint a Committee to confer with the Judges, and to ascertain upon what terms the arrangement could be carried into effect.

Mr Young opened the debate by observing that he held in his hand, and would now proceed to illustrate, the general principles on which he had framed the resolutions that had been printed at the suggestion of the house. No subject was of more momentous importance than the due regulation of the Judiciary. He would not attempt, by elaborate descriptions, or periods finely turned, to impress more firmly on the minds of the Committee, what every well informed judgment admits. It is enough that the upright impartial administration of justice, is the grand object, as it ought to be the first care, of a good government. And, indeed, it has been justly said, that all its pomp and terrors, its costly machinery and military force, are principally useful as securing to Courts of Justice the free exercise of their functions, undisturbed by foreign invasion or domestic broils. I would lay it down, Mr Chairman, as a maxim, that where a system of jurisprudence has been long established, has obtained a firm footing, and gained the affections, and been accommodated to the habits of a people, any essential change should be attempt-

ted with great caution, and its probable effects surveyed on all sides. Unless it be made clearly to appear, that a necessary practical improvement will be attained, that some positive evil may be redressed, it is the wiser course to pause, and rather "bear the ill we have, than fly to those we know not of." With these views, Mr Chairman, it will be obvious that I would not venture to embody the changes I propose in these resolutions, until I had convinced my own judgement that they would be highly beneficial, and were demanded by the circumstances of the Province. The petitions laid upon your table last year, and which could easily have been multiplied, the bills that have been presented in the session, the tone of public opinion, and the general impressions of members, indicates that some alteration of our Judiciary is wanted; and in preparing for the question, I have thought it best to exhibit in one view what appears to me advisable, with regard to the Court of Equity, as well as to those of common law. I am aware, Sir, that it will not be easy to render a discussion, turning in some measure upon technical points, as familiar and clear as I could wish—but I shall studiously avoid what might be obscure, and will aim at conveying to the Committee a condensed and lucid picture of my own thoughts. And first, as to our Equity jurisdiction, I know there is a division of opinion in the Committee. Some are inclined to think that it might be incorporated with the common law, and be transferred without inconvenience to the Supreme Court. This question has been long debated by some of the ablest lawyers America has produced. During my recent visit to the States, I directed my particular attention to the practical working of the system as it is there exhibited, under both aspects, of an independent and combined jurisdiction, and heard the opinions of many of their judges and practitioners. I enjoyed, too, the advantage of a personal communication with Chancellor Kent and Judge Story—lawyers whose attainments and brilliant reputation are not surpassed by any even in Europe; and gathered this general result, that however the question might be if a new system were to be framed for the first time, it was next to impossible to incorporate the two jurisdictions, where they had existed for any length of time distinct and separate, and the modes of proceeding in either court had been fixed and established. Such is the case in England, where the Equity jurisdictions may be traced back to the days of the Richards and the Edwards, and has grown up in the lapse of centuries, a complicated and stupendous fabric. In our own Province, the Court of Chancery has existed from our earliest records. The first injunction was issued in 1751, before we had obtained a legislature; the first bill for an account was filed in 1753, and the first foreclosure took place in 1761.—It appears by the returns upon your table that upwards of 1200 causes have been commenced in that Court, 460 of which are subsequent to the appointment of the late Master of the Rolls in 1826. An infinite number of titles depend on the decrees in these various suits and the habits of thinking at the bar, and the modes of conducting business, have been so completely moulded on the system of an independent equity jurisdiction, that great confusion must follow any attempt to destroy it.

Yet that such a jurisdiction, or process analogous to it, is indispensable to the due administration of justice—will be denied by no one conversant with the subject; the want of it, has been often felt and lamented in Massachusetts where as many wrongs and even gross frauds, may be committed for which the law of that State, incredible as it may appear, afford no remedy whatever. This singular anomaly