ensuing, during which period the court will not sit, and the Master's and the Registrar's offices shall be respectively closed: except that the Registrar's may at any time during the said vacation be opened for all purposes of making applications for special injunctions."

On the 3rd day of June, 1853, all pre-existing orders were abolished in express terms. But still order 4 of this series of orders, substituted for those abolished, says, "The long vacation is to commence on the first day of July, and to terminate on the 21st of August in every year." What long vacation? In my opinion the long vacation established by the order of 1840. But if, as it may be contended, that order was blotted out entirely, there would be no long vacation to which reference could have been made. The order must then, I think, have only been disturbed so far as order 4, of 3rd June, 1853, disturbed it; or must have been recognized and re-established by that order, except in so far as it interferes with it. If the provision for, or creation of a long vacation depends upon this order 77, then also, I think, we must look to it to see what that vacation meant; what was its character, purpose and object; and these are defined by the order itself. Giving effect to these, I think that no proceeding *in invitum* could or can be taken in the Master's office during the long vacation; that the proceedings in this case were therefore improper, and that the matter must be referred back to the Master to proceed anew. The ordinary meaning of the word "vacation" is an intermission of proceedings—of ordinary work. It is true that subsequent orders provide that vacation shall not count in the time allowed for certain proceedings may be taken in vacation. But for this provision time might well run in respect of proceedings had before vacation arrived.

As, I believe, this is the first case in which objection has been taken to proceeding in the Master's office during the long vacation, and as it has been customary during that time to take such proceedings, I make no order as to costs.

## CHANCERY CHAMBERS.

(*Reported by* J. W. Fletcher, *Esq., Solicitor, &c.*)

### Tice v. Myers.

*Practice—Petition to Court.*

Where under an order in Chambers after decree, persons interested in the equity of redemption of mortgaged premises have been added as parties to a suit in the Master's office, an application to set aside such an order must be made to the Court upon petition.

*S. H. Blake* applied in Chambers, on notice, on behalf of Cornelius O'Sullivan, who had been added as a party defendant in the Master's office after decree, under an order made in Chambers, as being interested in, or as being the owner of a portion of the mortgaged premises in question, to have the order set aside and vacated.

*Hamilton*, for the plaintiffs, without adducing merits, contended that the application was irregularly and improperly made, having been made in Chambers on notice of motion instead of to the Court upon petition.

The Judge's Secretary.—I am of opinion that the objection is a good one, and must prevail. The order in Chambers which was sought to be vacated having been made after decree, was in fact a part of the decree in effect.

Liberty given to O'Sullivan to apply to the Court upon petition—costs of the application in Chambers reserved.

### Wiman v. Bradstreet.

*Practice—Extension of time for appealing to Court of Error and Appeal.*

Where time to appeal to the Court of Error and Appeal from an order made in Chambers would expire before such appeal could be heard, the time will not be extended on an application made to a Judge in chambers for that purpose.

An order had been made in in Chambers this suit on the 29th of November last, refusing to discharge the writ of sequestration issued against the defendants. From this order the defendants desired to appeal to the Court of Error and Appeal; but as they had allowed one sitting of the said Court to be held without appealing, the six months would expire before the July sittings, and consequently unless the time was extended such an appeal could not be made at all. This was an application, therefore, for an extension of the time for appeal.

*McLennan*, for the defendants.

*S. H. Blake*, contra.

The Judge's Secretary.—Under the circumstances, if the appeal could be made at all, it might be made without an application of this description in Chambers. The English authorities shew quite conclusively that Judges in Chambers have no power to make such an order as that asked for in this case.

I must refuse the application with costs, on the ground of want of jurisdiction.

### Stephen v. Simpson.

*Practice—Taxation—Fee on subpœna.*

Fee on Subpœna by direction of the Court, to be allowed on taxations under the tariff of costs, where the amount itself is properly taxable.

[Master's Office, 1867.]

In the bill of costs in this suit a charge was made for fee on a subpœna. The Master taxed it off, holding that, according to the practice which had prevailed in his office for a considerable length of time, he was not authorized in taxing such a fee.

Application was thereupon made, through the Secretary, to the Judges of the court, for a direction to the Master to allow such fees to the parties.

It was contendrd that under the wording of the tariff a fee on a subpœna should be a taxable fee, being a writ issued out of the court.

The Judges Secretary, having conferred with the Judges, directed the Master hereafter to allow a fee of five shillings on every writ of subpœna on all taxations, when the charge for the writ itself is properly taxable.