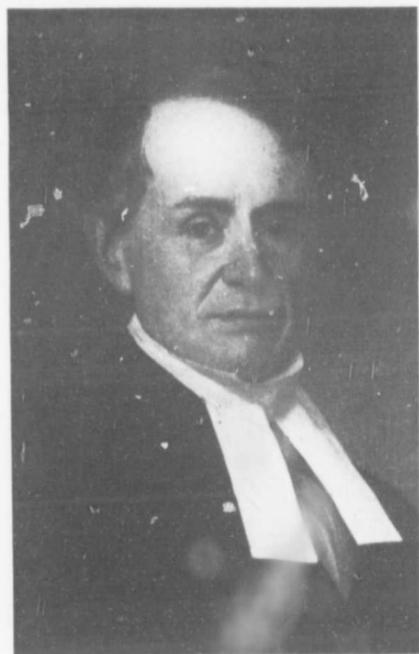

LIFE OF
HONORABLE ALEXANDER STEWART, C. B.

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HON. ALEXANDER STEWART, C. B.
MASTER OF THE ROLLS,
NOVA SCOTIA, 1865

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LIFE OF HONORABLE ALEXANDER STEWART, C. B.

BY

HONORABLE CHARLES J. TOWNSEND, CHIEF JUSTICE OF THE
SUPREME COURT OF NOVA SCOTIA.

Alexander Stewart, the subject of this memoir, was one of Howe's cotemporaries, and for many years they worked together in the great cause of reforming the constitution of the Province. He began the battle before Howe entered public life. At the time Stewart was first elected to the House of Assembly Howe was its reporter, and was then just at the beginning of his distinguished career as an Editor, and Journalist. Stewart, although highly appreciated in his day, has not in later times received at the hands of his countrymen that credit to which his eminent services justly entitled him. His eloquent and masterly speeches which have come down to us, his activity, and fearlessness in assailing existing abuses, mark him as well worthy to be ranked with that distinguished group of Nova Scotians, Archibald, John Young, Howe, and others who fought the famous battle which eventually swept the Old Council of Twelve out of existence, and gave to the Province the great boon of Responsible Government.

It is only necessary to consult the Journals of the House of Assembly and of the Legislative Council and the newspapers of the day, to understand the leading and useful part taken by him in this great controversy, and in all the principal questions then agitating the public mind. The record of his political life, and the temper and ability he exhibited in all the debates, and discussions, are chronicled from day to day during the progress of the events to which they referred, and bear ample testimony to the value of his services and to his upright, and fearless character. He was early recognized as one of the cham-

pions of reform in government, and the determined enemy of the coterie which at that time controlled the affairs of the Province. The part he played in these constitutional, and legislative reforms has no doubt been overshadowed by the names of some of his able, and brilliant cotemporaries. In the different Houses of which he was a member were several of the best speakers, and some of the ablest men who ever took part in our public affairs—such as S. G. W. Archibald, Halliburton, John Young (Agricola), C. R. Fairbanks, Richard J. Uniacke, Joseph Howe, Johnston, Wilkins and others with whom he either acted, or to whom he was opposed. It is very probable that his name was to a great extent lost to the public view for another reason. Just about the time the reforms he had long advocated were successfully accomplished under the leadership of Howe, Stewart left the popular branch, and was made a member of the newly constituted Legislative Council. In the course of eight or nine years more he was elevated to the Bench, and thus entirely withdrew from public life. Howe too, the great popular hero, went further in the pursuit of governmental reform than Stewart was willing to go. This led to a rupture in their political relations, and eventually to open enmity between them. Stewart who had been hitherto the active opponent of the government accepted a seat in the Executive Council, and vigorously opposed the measures which Howe was advocating.

As indicating the intimate relations between them the following letter, the original of which is in the possession of Howe's son will be interesting—It was written on the 2nd March, 1835 just after Howe had made his famous speech to the jury in the great Libel Case.

DEAR HOWE:—I congratulate you on your splendid defence. I hope ere to-morrow at this time that the jury will have done their duty as well as you did yours. On the whole it was performed admirably except that it was as regards the law too deferential to the court; however *nil desperandum*. You have a jury of Nova Scotians. In the meantime pray let me see your last New Brunswick paper.

Mrs. Stewart and I join in kind regards to Mrs. Howe, and in sincerest wishes for your deliverance from the jobbing justices.

Yours truly,

(Sgd). A. STEWART.

There are but meagre details of his youth now to be gathered. He was born in Halifax on the 30th day of January 1794. His father was the Rev'd James Stewart, a Presbyterian Minister, who had recently come to the Province from Scotland. He was the eldest of three children. A brother James became an eminent barrister and was his partner, and a sister Elizabeth married Silas H. Morse of Amherst, and was the mother of Lady Tupper wife of Sir Charles Tupper. The family group was sadly broken very early in his young life by the death of his father leaving his widowed mother with three children in poor circumstances to struggle with the world.

In old St. Pauls' burying ground opposite Government House lie the remains of his father, marked by a well worn grave stone, and near to it the grave of one of his own children who died in infancy. Alexander received his education at the Halifax Grammar School, and if one may judge by the great command of language, the purity of diction, and ease of composition found in his writings, and speeches, the instruction must have been excellent, and the pupil apt and industrious. Not only was his English of the purest and best, but his knowledge of Latin and other branches of general education was remarkable considering the short period he was able to attend the school. As has been said the young family were left by the father's death in poor circumstances, and it was necessary that he, as the eldest, should put his shoulder to the wheel and assist to maintain them. He was first employed as a clerk in the Ordnance Department, a situation obtained for him through the influence of friends. He was then about sixteen years of age, and remained for some years in this office, how long is not exactly known. He succeeded in gaining the respect, and confidence of his superior

officers, so much so, that when dissatisfied with the poor prospect before him, he decided to give up the position; the Head of the Department remonstrated with him, saying, that if he remained, he would rise to be Chief Clerk. He is said to have replied, "that he would not remain if he could rise to be higher than the Chief of the Department himself." The spirit of self reliance contained in this answer was the key note of his future success. Leaving the Ordnance Department he entered the service of Messrs. Boyle and Moody, at that time large West India merchants. Mr. Moody evidently appreciated his abilities for in a short time, young man though he was, he was taken into partnership, and the firm became known as Moody & Stewart. So successful were the firm in business, trading in the West Indies and elsewhere, that after a few years Stewart was able to retire from the firm with considerable money, enough to allow him to devote himself to the study of the law which had long been his cherished wish, and ambition. Hitherto for want of means he had been unable to do so, but now having reaped the fruits of his industry, and secured a competency he at once commenced his legal apprenticeship. He at first became indentured to a practising lawyer in Halifax named Kidston, continued with him for some years, and then had his articles of apprenticeship assigned to his brother-in-law James S. Morse, of Amherst, in the County of Cumberland, whither he immediately removed. With Mr. Morse he completed his term of study, and was admitted an Attorney-at-law at Halifax on 14th July 1821, and a Barrister-at-law in the year following.

Prior to his admission to the Bar on the 26th June 1816, he had married Sarah, sister of the Honorable James S. Morse, which proved to be a happy marriage, and gave him that inestimable boon, domestic felicity for life. She was not only a fine, and pleasing looking woman, but she possessed the more valuable qualities of an amiable disposition and was endowed with a more than usual share of good common sense. She was a prudent woman, and was through their long married life devoted to her husband. She knew the peculiarities of his tem-

perament, and whenever the occasion arose she exercised her calm influence in controlling his sometimes unreasonable bursts of passion. His affection for her was so great, and his confidence in her sound judgment so strong, that she was able to aid him materially in the struggles of his early career; and when at length he attained wealth, and high position, she proved a worthy help-mate capable in every way of filling the place she was as his wife called to occupy. It was seldom he took any step of importance without consulting her, and her rare common sense would generally prevail with him. They had a large family, of whom five only survived him, and herself survived him for twenty five years dying at Amherst in February 1893 at the ripe age of ninety eight. She lived to see her children's children in the fourth generation respected and beloved by all her descendants. It was fortunate for him that he was blessed with such a good, and prudent wife who readily, and uncomplainingly shared with him the trials, and difficulties with which he had soon to contend.

The period of time then necessary for serving under Articles of Apprenticeship, five years, had not expired, when Stewart's prospects were suddenly clouded by a blow from an unexpected quarter. The firm in which he had been a partner became insolvent. He had not taken the proper steps to make known to the public his severance from the partnership. As a consequence the creditors sought to make him responsible for the partnership's liabilities. Suits were brought against him, judgments obtained, and he was chased with executions by the Sheriff for claims he could not meet, and for which he felt he was in no way morally responsible. As far as possible his friends screened him, and even the officers of the law were favourably disposed towards him. His one great object was to complete his studies so that he might be enrolled as an Attorney and Barrister-at-law. In this he finally succeeded. An arrangement was made by which he surrendered to the creditors everything he possessed, provided he was permitted to pursue his professional studies unmolested. On these terms he continued to work until his admission to the Bar. It was then he had to

begin the world anew without money, or means of any kind and with the additional burden of a wife, and children to support.

In this connection a letter of Moody & Boyle, Creditors Solicitors, the legal opinion of Mr. Robie and Stewart's letter to S. G. W. Archibald are of interest, both in showing the unfortunate position in which he was placed and the honorable manner in which he treated an unjust demand. It is further noteworthy that all of the legal gentlemen connected with this correspondence in turn became master of the Rolls in turn and Stewart the last of all.

HALIFAX, 29TH DECEMBER, 1819.

DEAR SIR:—On the part of the Assignees of Moody and Boyle we have to call your attention to the claim they have on the late firm of Moody & Stewart, which they are desirous of having settled as far as you are concerned. The amount due has been fixed at £3,500, and of that sum the assignees will be willing to receive such proportion of £1500—offered by you as the whole demand against Moody & Stewart bear to their claim, and to give you a release. We are informed the whole demand amounts to £1811, and if that sum is correct, the assignee would be entitled to £291,6,8.

If you are willing to pay that sum on receiving a release, be pleased to make the necessary arrangements and although it is impossible to get a number of the creditors to join in one arrangement, we feel assured the principal part of them who have claims on you will accept of the same terms. To induce them to do so we shall cheerfully use, our best exertions, Your early reply on this subject will oblige. Dear Sir your obedient servant

CHARLES & SAMUEL FAIRBANKS.

MR. ROBIE'S OPINION.

"I am strongly inclined to think that Mr. Stewart as a partner in the firm of Moody & Stewart cannot be answerable to Moody & Boyle for any of the charges contained in that statement as

it appears they were made not with any idea of making Mr. Stewart responsible, but merely to enable Moody & Boyle to settle with each other which they could not have done without entries of this kind, the transaction of the several firms being run into each other. I take for granted although it is not stated by you, that Boyle was all along informed of the settlement, and agreement that had been made between Moody & Stewart, indeed it must have been impossible for him to have been ignorant of it, in any event the payment by Mr. Boyle of the debt of Moody & Stewart after the dissolution of the copartnership of the latter must as respects Stewart have been voluntary and made without his knowledge, or without any request on his part, and therefore he cannot be answerable at least so I think."

S. B. R

STEWART'S LETTER TO S. G. W. ARCHIBALD, ESQ.

AMHERST, JANUARY, 14TH, 1820.

SIR:—I take the liberty of handing you a copy of a letter which I received by the last post from Messrs. Fairbanks on the part of the assignees of the late firm of Moody & Boyle. As my object in to be fully released from all claim on me on account of my connection with Mr. Moody, it is of little consequence to me who shares the sum I relinquish, provided that object be attained. Yet I certainly would rather that those who have legal claim on me should receive it, than otherwise, and having had your opinion, and also that of the Solicitor General, a copy of which is subjoined that the claim is unfounded, I conclude that they have neither a legal or equitable demand on me. I therefore leave it to you, and the Creditors of M. & S., to determine whether the proposal made on the part of the assignees of M. & B., should be accepted. If not I should expect a Bond of Indemnity as to that claim, as however fetid it might appear, in the end I should probably in the meantime be burdened with the expense of defending a Chancery Suit, which in the altered state of my finance, I shall be little able to bear. Perhaps Mr. Fairbanks on being put in

possession of the part of the case would agree in opinion with you, and Mr. Robie, and would advise the assignees not to harrass me with a further suit, as I have hitherto had every reason to believe that his disposition towards me was friendly, or if he should decline doing that, that a statement of the case may be drawn up, and submitted by both sides to two, or three gentlemen of the Bar. May I beg the favor of your seeing him early on the subject, lest he might think I treat him contemptuously by not answering his letter. I am, Sir, with respects your very obedient humble servant.

ALEX. STEWART.

S. G. W. ARCHIBALD, ESQ.

His training, however, had been in the school of adversity. His youthful labors, and business experience had brought to him strength of mind, and self reliance which now well sustained him in the arduous struggles of life. Undismayed by the great discouragements which surrounded his position he applied himself with zeal and earnestness to his professional duties, and in a comparatively short time won the most gratifying success. The difficulties of his situation were of no ordinary or trifling character. In addition to his poverty, by this time quarrels, and dissensions had arisen between himself and Mr. Morse, with the inevitable result that instead of the latter rendering him any assistance in his new career, every obstacle was put in his path. Mr. Morse was at that time, probably, the most influential man in the County of Cumberland, connected in business and socially with all the leading people. He was the representative of the town of Amherst in the Legislature, and the intimate friend and associate of the governing powers in Halifax, and in a good position to thwart both politically and otherwise Stewart's efforts to make a name and place for himself. Against such odds Stewart, a poor, and comparatively unknown young barrister, had to contend at the very outset. He has been heard to say in after years that when he commenced practising law, it was no unusual thing for himself and family to sit down to a dinner of salt herring and potatoes.

In a letter to his grandson he says; "When I commenced practise I had tenpence in my pocket, a wife, and your mother to support."

Thus surrounded he opened his office in Amherst, then a small village, with no money, few friends, and the bitter personal animosity of those connected with him. He had not to wait long, nor in vain. Clients soon flocked to his office. His abilities must to some extent have been known from the years he had already passed in Amherst in acquiring his profession, and now when the opportunity occurred he was quick to seize it, and give evidence of the powers that were in him. It is said by persons who witnessed his early efforts that his conduct of the cases with which he was entrusted soon won the confidence, and admiration of the public, and as a consequence early in his practise business came rapidly. He had every inducement to put forth his best efforts. He was not however the man to spare himself in the energy he put into his work, and the industry with which he applied himself to the matters he had in hand. This was one of his characteristics throughout life. What he undertook to do he did well, and the result was that he met in the trial of causes at the bar the most gratifying, and unbroken success.

Shortly before his death in answer to an enquiry about his successful career, he says—"All I ever assert a just claim to is energy, industry and honesty, some considerable ability for public speaking nature bestowed upon me, and by repeated perusals of Erskine's orations, I think I imbibed a little of his good taste and improved it somewhat for I had a widespread reputation for the success of my oratorical efforts, and I was rarely unsuccessful in winning verdicts. While in the Legislature where my cotemporaries were Archibald, Fairbanks, Bliss, Halliburton, the two Youngs, the father and the present Chief Justice, and others, I held a respectable position. Recurring to the probable cause of my success, for I had undoubtedly great success at the bar, I may mention that I never omitted

any effort to thoroughly understand every cause I undertook. I always looked at the law and facts if possible through the opponents spectacles, cross examined my own clients rigorously and never omitted to closely question witnesses in my office before I adduced them in court. Both parties and witnesses unconsciously we must think keep back circumstances in their view unimportant which completely alters the character of the case."

His reputation as a sound and able lawyer rapidly spread through the county and the adjoining County of Westmoreland in the Province of New Brunswick. With his reputation growing his business increased until he was retained in all important cases not only in the County of Westmoreland but throughout the Province of New Brunswick. With increasing business his income rapidly rose until he was able to lay the foundation of the very considerable fortune of which he died possessed. In that Province he encountered some of the very able men at that time practising at the bar, and sustained the high position already gained in his native Province. He thus became a leader of the bar in both Provinces, and his services were eagerly sought for. The particular cases in which he was engaged have ceased to be of any interest, but his character as an advocate and his mode of presenting his cases in court are worthy of notice. As can be readily understood he had always been a diligent student and when he came to the bar his mind was thoroughly stored with those principles of law which characterised his decisions on the bench. Knowledge of principles was the advice which he instilled into his students. In one of his letters to his grandson then a student at law he says: "Nothing you can commit to memory will give you in so small a compass so much available legal knowledge as the Latin Maxims. To the attentive regard I always paid to principles I owe much of my success as a lawyer and a Judge and each of these maxims embodies a principle. To these principles I owe my deduction of a right rule in the recent novel and anomalous case of the Chesapeake, the mere enunciation of which

excited such a storm of disapprobation among the bar and the sciologists of the press. I have reason to believe that my view of the right disposal of that vessel is confirmed by the Crown Officers in England.

Case law in his estimation was a subordinate consideration, not that the study of cases should be neglected but the foremost place must be given to those fundamental rules and principles which govern the decisions. He is said to have been a great power with the juries. He was a clear, forcible and impressive speaker, and generally succeeded in impressing on them the convictions of his own mind in the cases he advocated. While a successful jury lawyer he commanded great weight with the court. We have no reports of the cases he tried and argued and must therefore depend on his general reputation. This reputation is confirmed by his speeches in the House of Assembly and by the judgments which he pronounced from the Bench of which a small number are to be found in the reports and in the Press of the day.

His standing as an able, and successful barrister, and as a professional man in the County being well established, his attention was next called to public affairs. Parties were not then divided as now. When he entered the political arena representatives to the Legislature were much more chosen on their merits apart from their political leanings. He first became a candidate and was elected to the House of Assembly for the County of Cumberland at the general election of 1826, and was also returned for the same County at the two succeeding elections. In the year 1837 he was appointed to the Legislative Council of which body he continued a member until his appointment to the Bench in 1846. His elections were severely contested, and on the last occasion he barely succeeded in retaining his seat.

Judged by the course he adopted and followed from his first entrance into the Legislature, Stewart must be classed as a reformer, and liberal in his views. He strenuously attacked the abuses which in his opinion existed, and was foremost in ad-

vocating measures for the improvement, and development of the Province. His attitude to the old Council of Twelve has already been referred to, and later on in the course of this memoir it will be seen how boldly he challenged its conduct.

His political leanings are very clearly shown by Howe in the "Nova Scotian" of Nov., 27th, 1839, where in giving a very humorous account of Stewart's speech at the Lord Mayor's dinner in London, he says, "we could not have helped laughing even if we still looked upon the ex-member for Cumberland, as we were in old times wont to regard him as a champion of Reform, a Tribune of the people, and a fellow labourer in the Colonial vineyard from which both were convinced that it was desirable to root out many noxious weeds. Regarding him as we do now, certainly more in sorrow than in anger as one of those most conspicuous labouring to shelter and preserve the weeds—as one who is bragged of as a political Goliah (we beg pardon he is not their Goliah) of the Philistines we think we are entitled to make merry." These comments were made of course after he had severed his connection with Howe, and his party, because he believed they were pushing the desired reform beyond what was necessary, and not in the interests of the Province.

His political views are again very clearly brought out in the Report of Young and Huntington to the House of Assembly on the results of their delegation to the Colonial Office. Stewart and Wilkins were sent as delegates on behalf of the Legislative Council. They report that at the interview by appointment at the Colonial Office. "Mr. Stewart here expressed his anxiety to be informed what was the liberal or popular party, and how it was distinguished. He differed with the majority of the Assembly on the extent of economic reform, but on all popular questions had always stood side by side in the Assembly with Mr. Huntington." To this question Mr. Young replied, "That Mr. Stewart had at one time been accounted a leader on the liberal side, but had become of late years one of their most active opponents." Mr. Stewart then insisted that there was no

essential difference between the two parties; he declared he was as much a liberal as ever, and disapproved as much of High Church and Tory measures." This statement of his position and views as a public man, as reported by two of his strongest opponents, sufficiently indicated the stand he took on all public questions. He was not a party man—he was a liberal but not a radical. He stood for the gradual amendment of the constitution so as to bring government more in harmony, and under the control of the people.

Alexander Stewart's appearance bespoke him to be a man of strong character. He was of medium height, and squarely built, an erect figure with a quick impulsive walk. His head was large with a broad, and full forehead—eyes a lightish gray—his complexion reddish with a rather stern expression of countenance. In conversation this expression would relax, and he was always a most agreeable and interesting companion brim full of talk and humour. The fund of information he possessed on most every subject would come out in the discussions which took place. He was a great reader, and having a very retentive memory he could throw light and interest into any question which formed the subject of conversation. He was very fond of poetry, especially the Scottish Bards. No one could be long in his society without appreciating that he was a man above the ordinary. The oil portrait of him in his son's possession shows these characteristics. His manners while ordinarily courteous were at times quite abrupt, especially if anything had occurred to irritate him. His temper was hasty, and at times violent, and was not well under control, a defect which in the course of a busy life often worked injury to himself, and of which no one was more conscious than he was. There was, however, nothing vindictive in his disposition. Once the storm was over, no one could be more ready to make amends, and acknowledge his error. Of a generous, and forgiving character he did not retain malice or ill feeling. He felt, and as all deep natures feel, strongly when he conceived he had been injured, or unjustly treated, but at the end of his life all such sentiments had passed away and were

obliterated from his mind. In one of his letters, dated 20th Sept., 1864 a few months before his death, referring to the abolition of the Court of Chancery, he says: "I was, however, dealt very harshly with by all parties, when I was displaced from the Rolls, but I have long since forgiven the actors."

His sense of honor of doing what was right and just at whatever cost was one of his great characteristics. No sordid motives, nor underhand dealings were tolerated by him for an instant, nor did he hesitate to denounce boldly what he believed to be wrong no matter who was the offender. In his dealings with others he was scrupulously correct and exact. In all he undertook to do or did he was thorough and painstaking, working with that indomitable energy which was part of his nature. While in the course of his career he had made many bitter enemies he was happy in the enjoyment of many strong friendships which continued unbroken to the end of his days. In early life he was a Presbyterian, but subsequently became a member of the Church of England. His religious convictions were deep sincere and strong, but there was no narrowness in his views in this respect.

Before turning to his political career there are some other incidents connected with his residence in the County of Cumberland which will be of interest. He continued to practice in that County and in the Province of New Brunswick with increasing reputation and growing business, until the year 1834, when with his family he removed to Halifax, and opened an office with his brother James as a partner. During the 14 or 15 years of his residence and practice at Amherst several students were articled to him who afterwards made their mark in legal and political circles, such as Senator Dickey, and the late David Shanks Kerr, of St. John, N. B. It was with great pride that these men looked back to their former tutor for the careful and accurate training they had received at his hands. By this time too his associations and influence had widely extended among all classes of the people in the County. Nowhere was this

more strongly manifested than in the eastern portion of Cumberland, where the settlers were chiefly Scotch or of Scottish descent. A strong sympathy, and attachment existed between them. It is said that at his last election when owing to sinister influences in other parts of the County defeat stared him in the face, he shouted to his exulting foes, "wait till we get over Wallace Bridge", and he was not deceived. The Scotchmen turned a crushing majority against him, into a majority in his favor, and he was again returned to the Legislature. Stewart did not forget them in their hour of distress. A time came when the scarcity of flour was so great, and the price so high, that these men of moderate means, and little money, were unable to get it for their families, Stewart put his hand in his pocket, purchased the flour and distributed it amongst them. The old Scotch people of the Gulf Shore, Wallace, and Malagash never forgot Stewart, and so far carried their devotion to his memory, that they or their descendants loyally adhered to, and supported his children's children in many political contest long after he was in his grave.

Among the many prominent persons in the County of Cumberland whose friendship he had gained, and valued, was the Honorable Daniel MacFarlane who was Custos of the County, and subsequently a member of the Legislative Council. Mr. MacFarlane had early in the last century emigrated from Scotland with a large number of Scotch people, and settled at what was then called Remsheg subsequently changed, it is said at the instance of Stewart, to the name of Wallace more in keeping with the nationality of the early settlers. Amos Seaman, the so-called King of Minudie, was another of his warm supporters and friends. He became the owner of the Minudie Estate purchased through Stewart's assistance from the DesBarres, and controlling as he did a large tenantry, and quarrymen who worked the valuable grindstone quarries on the estate, Mr. Seaman was a powerful man in the County.

Robert McGowan Dickey, father of Senator Dickey, was at that time a leading resident in the central part of the County

which he represented in the Legislature for some years. His only son the Senator subsequently married Stewart's second daughter Mary. His influence, combined with others such as William White Bent, Joseph N. B. Ken, and the powerful Ratchford family at the western end of the County—all people of good standing and leaders in political affairs—upheld and strengthened Stewart in the career on which he had entered. Those mentioned are of course but a few of the most prominent whose names have come down by tradition as the friends, and supporters of Stewart, during the time he lived in Cumberland, and was its representative in the Legislature. In 1828 he was appointed Judge and Registrar of Probate for the County, which offices he held until he left Cumberland.

His business capacity nowhere showed to greater advantage than in his management of several large, and important land estates in the County entrusted to his hands, such as the DesBarres, the Cochran, the Cunard and Blair properties. Sales were to be made, and rents collected, trespassers to be watched, and boundaries to be maintained. His early business experience with his ripened knowledge enabled him to handle all such transactions with great skill, and prudence, and to the marked advantage of his clients. Not only did his clients reap the benefit of his superior capacity, but he had by the time he decided to go to Halifax amassed, by hard work and frugal living, a fortune sufficient to make him once more independent, and to pursue the independent course he had always adopted.

The decision of Stewart to remove to Halifax was a very natural one. Amherst was then a small village at a long distance from the capital. The field for his growing ambition both as a lawyer and a public man, was very limited. He had now attained a high reputation, both in his profession and as a rising statesman, and if he was to maintain that position and advance to higher office, as matters then stood he must push his way in the centre of political action, and where he would have the opportunity of contending with the foremost legal talent of

the Province. Accordingly in 1834, eight years after his first election to the House of Assembly, and twelve after his admission to the Bar, the momentous step in his future career was taken. That it was a venturesome one, especially in view of his known attitude to the powers then controlling the social, political, and legal affairs of the Country, cannot be doubted. The old Council, composed of many of the influential business and professional men, or connected with them, were in a position to down any aspirant hostile to their authority, unless, as it turned out in his case, he was possessed of more than ordinary nerve and courage to withstand their influence. Stewart had evidently grasped this view of the situation. He did not make the move until he had the material resources to depend upon, and then in that self-reliant spirit so conspicuous throughout his life, he planted himself in the Metropolis of the Province, with his brother James as partner. His coming was viewed with no friendly eyes by even many of the leading members of the profession, who no doubt regarded him as an intruder into their territory. Opposition of this kind could not successfully prevail against a man of ability and courage prepared to fight his own way. It soon went down before his bold, vigorous, and independent action, and in the course of a few years the records of the Court show that he was gradually and surely taking a leading position amongst his brethren at the Bar. As his merits became better appreciated his services were eagerly sought for, and before he left the profession he could number among his clients many of those who had in the past been his most bitter opponents. In 1846, just twelve years after coming to Halifax to reside, he was appointed Master of the Rolls. His elevation to the Bench was the crowning success of his strenuous and busy life, which at once removed him from the ranks of the profession which he had so long adorned, and from the halls of the Legislature, where for so many years he had played such a prominent part in the affairs of the Province.

His political career, which extends over a period of twenty years, next demands attention. It embraced one of the most important, and stirring epochs of our Provincial history when

increased interest in public affairs began, and a revolt against the existing system of Government was looming up. Many grave and important questions were from time to time before the Legislature—none greater than the struggle for responsible government, in all of which it will be found in the course of these memoirs Stewart spoke with no uncertain voice in the interests of the people, and for the advantage of his country.

POLITICAL CAREER.

As stated before Stewart was first elected to the House of Assembly as member for the County of Cumberland at the General Election of 1826. The new House was called together on the first day of February, 1827. Sir James Kempt was at that time Lieutenant-Governor of the Province, and the Old Council of Twelve then constituted both the Executive and Legislative branches of the Government. It was composed chiefly, if not altogether, of the chief magnates of the Province and prominent persons residing in Halifax such as the Chief Justice, the Bishop of Nova Scotia, the Collector of Customs Mr. Jeffrey, Enos Collins, Mr. Wallace, Mr. Uniacke, Mr. Binney, Mr. Robie, Mr. Prescott, and Mr. Stewart. The authority exercised by this body over Provincial affairs was very great, and before this period their proceedings had been complained of and questioned by the House of Assembly, but with little success.

Among the men of note who occupied seats in the Assembly when Stewart first became a member were Samuel G. W. Archibald, the eloquent orator who was made Speaker as he had been in the previous House, Richard J. Uniacke, Junior, Thomas C. Halliburton, popularly known as Sam Slick, John Young, known as Agricola, Charles Rufus Fairbanks, afterwards second Master of the Rolls, Beamish Murdoch, the future historian of the Province, William Lawson, Lawrence Hartshorne, William Henry Roach, and others.

Many stirring questions of great importance at this date were agitating the public mind such as the Quit Rents, the ques-

tion of Catholic Relief, Education, and the right of the House to control the public revenues of the Province. It will be seen that Stewart very soon came to the front and took a leading part in the discussion of these, and other measures, and assisted in the legislation which followed and in vindicating the rights of the people's representatives. As no official reporter then recorded the doings of the Assembly it is only possible to gather from the newspapers of the day such imperfect accounts of their proceedings as they thought sufficiently interesting to publish.

Mr. Fairbanks in the previous session had brought before the House the lamentable condition of the Province in respect to Education, and had by resolution proposed that common schools should be supported by direct taxation. The time was not ripe for such a radical step and probably the Province was not equal to such a burden, and nothing came of this movement.

At the present session T. C. Halliburton took up the school question introducing a new bill appropriating a sum of money to this object, which the Council rejected. The next day Halliburton introduced a new bill in very similar terms which was seconded by Stewart. It was in this debate that Halliburton made use of some very disrespectful language towards the Council in which that body was described as twelve old ladies. The Council resented this, and ultimately the House with great reluctance on the demand of the Council censured Mr. Halliburton. This incident is mentioned as the first in which Stewart displayed his attitude to the high handed position taken by the Council, by giving his general support to Halliburton. It no doubt created in his mind the unfavourable feeling towards that body which characterized his future action, and led him to join with those who were determined to curb its pretensions. The previous House had also passed an address protesting against the appropriation of the Provincial Revenues by the Lords Commissioners of the Treasury, claiming that such Revenues should be entirely under the control, and at the disposal of the Colonial legislature. At this session the question was again brought up

by Mr. Fairbanks who moved several resolutions on the subject contending that they were a firm and manly statement of a right which he trusted in God would never be denied—the right of this House, and this country to the fair privileges of British subjects, and the appropriation of all monies collected in the shape of taxes in the Province. These resolutions were supported by Stewart. They were opposed by Uniacke, Murdoch and Young, but were finally passed with an amendment. In this debate again Stewart is found on the side of reform, and in upholding popular rights.

It is curious to notice the position taken by Halliburton, Uniacke, Young, Murdoch and others on a question like this. They all opposed its passage in strong speeches. But John Starr of Kings and Roach of Annapolis, and Stewart vigorously supported the resolutions which were carried by a vote of 19 for and 15 against. Stewart reviewed the first two resolutions, and wished those opposed to them to point out anything inflammatory in them. The third embodied the two first, and pledged the House to provide liberally for the officers of the customs. He made some further remarks on the address of the Assembly on the subject in the previous year. Mr. Halliburton's resolution in his opinion was at variance with itself, and in reference to an expression which had been made that more satisfactory arrangements would be made when the report of the Surveyor General was sent home he asked, were the rights of the people of Nova Scotia to depend on the report of any officer? For his part he would say that the people did not hold their rights by a tenure so doubtful. Halliburton's amendment was put and lost.

One of the most stirring debates which took place during this session was on the application of the trustees of Pictou Academy for a renewal of the grant of £400 towards its maintenance. In the end the resolution to make the grant was carried, but the Council refused to concur in it. Stewart took strong ground against the grant in which he crossed swords with Archibald, and Halliburton. His opposition appears to have

been largely due to the very objectionable tone of the petition addressed to the Legislature, and to the fact that it meant setting up another sectarian educational institution in the interests of the Presbyterians, and further that it was beyond the means of the Province. It is to be remembered that at that period he was himself a member of the Presbyterian body, and therefore could not have been actuated by any religious prejudices.

The next large, and important question which engaged the attention of the House was the petition for the relief of the Roman Catholics who were at that time debarred from taking seats in the House without the test of certain oaths to which they conscientiously objected. The matter was brought forward on the 20th February, 1827, by Mr. Uniacke, and on the 26th February its consideration was taken up. Eloquent speeches were made in support of the prayer of the petition by Richard J. Uniacke, Benjamin DeWolfe, T. C. Halliburton, Stewart, Fairbanks, Young and Dimock, and the resolutions were carried without a dissentient vote. Halliburton's speech on that occasion has been greatly eulogized. Reading it dispassionately at this day it strikes one as peculiarly bombastic, and extravagant, and inaccurate in the statements made. Some of these statements were challenged at the time. The best apology for his speech is probably that he was then a young man bidding for popularity, but his remarks in an historical point of view are in many instances unsound. Stewart spoke on that occasion, and said "He deprecated the abuse which had been lavished on the Bench of Bishops (Mr. Uniacke here rose and denied that he had abused them). Notwithstanding the ill timed zeal, and injudicious observation of the advocates of the address he should support the measure. Whatever necessity existed in England for the test oath, he saw none in this colony. He wished to see entire religious liberty prevail in Nova Scotia. The Catholics forming the population were loyal, and respectable subjects, and ought to be relieved from this mark of degradation." These calm and judicious expressions exhibit very strikingly his advanced and liberal views on the subject of religious equality.

The next question of importance on which Stewart addressed the House was on the proposal to appoint two Agents for the Province in London. Halliburton led the opposition and was supported by Stewart. He says, "He coincided with Mr. Halliburton. He deprecated the spirit of the resolutions as they went to deprive His Majesty's Council of a share in the nomination which they always possessed. Another objectionable feature was that the agency was only directed to represent commercial interests while the agricultural were thrown into the shade and neglected. There was no valid reason advanced why the House should not continue to pursue the same plan hitherto followed of transmitting its documents through the Lieutenant Governor of the Province. He was willing to grant a sum to pay an agent for the merchants but that agent should not be clothed with a Provincial character, nor should he be guided as to the interests of the country generally by a body of men not having constitutional authority." The resolutions were lost.

The next session of the Legislature was called on the 31st January, 1827, in which the question of Quit Rents came up. Orders had come from the Secretary of State for the Colonies in the Spring of 1827 remitting all arrears previous to 1st July 1827, and directing the collection of rents due to the Crown on grants of land thenceforward. The revival of this obsolete claim after it had been allowed to sleep from the foundation of the Province naturally excited great dissatisfaction. The revenue which would thus be raised would have caused great distress to the people, but what was worse would put it wholly at the disposal of the government in which the Assembly would have no voice. The matter was brought up in the House early in the session. Stewart was the prime mover. He submitted a resolution to the effect that a Committee be appointed to request the Lieut. Governor to furnish an account of the amount, and disposal of the Quit Rents, and to give such other information on the subject as might be necessary to the House. Mr. Uniacke was opposed to this and was satisfied that the intentions of the Mother Country were beneficent. He thought however it would

be better to petition his Majesty to waive this claim, but was fearful if, from the information which they were about to request the amount of the Quit Rents were known in England, the British Government would be far less willing to give them up.

Stewart would make no compromise. He said, "He wished no concealment, in fact he considered it impossible there could be any. The debates of the House were public. The speeches would be taken down, and published throughout the Province. The officers of the Government would of course be in possession of the facts, and would have to furnish them to the Colonial Office, because before the claim was abandoned, the amount would have to be ascertained. He was firmly of the opinion, however, that the Quit Rents never could, and never would be paid by the Province." Objections of different kinds were made to the resolution, but Stewart said that the objections that had been urged all went upon the ground that the House was debating with closed doors, and that the British Government could not get information elsewhere. The fact was otherwise. In the end the resolutions were agreed to, and Stewart with several other members were appointed a Committee to wait upon his Excellency and to intimate to him the desire of the House on the subject of the Quit Rents. The House finally adopted a Memorial to the King praying him to relinquish the Qute Rents, or suspend their collection.

The answer to the Memorial of the House of Assembly was not favourable. An offer was made to enter into a composition, or commutation of these rents. It came up at a late date and was again discussed in the House.

In the session of 1829 the case of Mr. Bary, Member for Shelburne was before the House. He was required to apologize for some disparaging observations made in reference to Colonel Freeman another member. This he refused to do, and he was forbidden to take his seat until he made the apology dictated by the House. Mr. Bary in defiance of the resolution took his seat the

next day when he was taken into custody by the Sergeant-at-arms and removed from the House. Riotous disturbances took place by Bary's supporters, who even went so far as to assault several members of the House. On this occasion the gallery was cleared and the Speaker appealed to the House for instructions. Stewart thereupon rose, and said, "that by all his hopes of happiness in a future state he had acted toward Mr. Bary in his former votes with what he conceived to be leniency, and kindness, and that it was under most painful feelings he felt himself bound to offer to the House the resolution he held in his hands which in effect was that Bary having been guilty of a high contempt of the privileges of the House he be further committed to the custody of the Sergeant-at-arms until the further order of the House. This was passed, and Bary was committed to custody. For a further contempt in publishing a letter reflecting on the action of the House he was expelled the House and committed to prison for the remainder of the session.

Stewart's attitude to the old Council of Twelve may be gathered from a speech he made about this time. One or more vacancies in the Council had occurred, one of which had been filled by the well known Samuel Cunard, afterwards Sir Samuel Cunard. His qualifications for the position were undoubted, but it did not meet with the universal approval of the House, and among others of Stewart. He desired them to understand that Halifax was not all Nova Scotia. If the policy pursued in making recent appointments to the Council, the end was to add information to that body, it was one that would eventuate in the good of all. He had nothing in the least to say derogatory of the individuals selected—on the contrary he respected them, but confessed that he thought the interests of the Province would have been better served by selecting persons at a distance from the capital, persons who could bring local intelligence, and local influence into the Council. He did not go behind the door to say that in his opinion, of the person called to fill the position of a Councillor, there should be undoubted evidence that he possessed the confidence of the people. One for example who had

sat in the House of Assembly for many years might reasonably be supposed to be eligible for a seat in the other branch. He warned the Governor and his advisers that great feelings of jealousy existed in the country on the subject, and he felt that he should be wanting in his duty, if he failed to mention the fact. He was not in favor of an elective council, but he wished to see the agricultural interest represented in the higher body, and he thought the time was opportune to enquire whether some alteration might not be judiciously made in the constitution of that branch. Under any circumstances it would be advisable in making selections of representatives of the agricultural interests to seek some one who resided beyond the sound of the gun on George's Island.

In these remarks Stewart's disposition to reform the old Council is plainly evident—in fact his whole course in the House at this period, and during all the time he sat in the Assembly indicates his dissatisfaction with the existing management of public affairs, and that he did not fear to give expression to these views in the face of the powerful influence against him. His warning was not then heeded, but before many years passed the Old Council of Twelve was swept out of existence, and a new order of things which resulted in Responsible Government was brought about. Although he was not then a Member of the House of Assembly, he was one of the men who set the ball rolling. He worked in conjunction with Howe for reform, and only stopped when he thought Howe was going too far. No doubt as we view these matters now he was mistaken in not pushing reform to the full extent—but while a reformer his zeal was tempered with caution against changes which he considered too radical. When certain reforms were attained which in his opinion were sufficient he upheld the Lieut. Governor in his interpretation of the Imperial despatches, and thereby incurred the bitter hostility of those with whom he had hitherto worked.

In the session of 1830 another evidence of Stewart's liberal and enlightened views appears on the question of the relief of

Roman Catholics. A copy of the English Act for reviving disabilities had been passed with a recommendation that the Legislature should pass a declaratory Act extending its provisions to the Province of Nova Scotia. Stewart called attention to the Message, and asked that it be referred to a Committee with instructions to enquire into the necessity of abolishing all the unnecessary oaths required to be taken on entering Parliament or on the acceptance of office. Uniacke opposed this motion which does not appear to have passed.

During the previous session the Judges of the Supreme Court memorialized the Legislature on the inadequacy of their salaries with no favourable result. At the present session the matter was again brought to the attention of the House of Assembly by a message from the acting Administrator of the Government transmitting the memorial, with reasons in its favour. The proposition to increase their salaries was bitterly opposed in the House by all the Members except the lawyers, and at that time much prejudice existed in the Province against the legal profession. Stewart spoke with no uncertain sound on that occasion. He made the closing speech, and replied with great warmth to the arguments against the application. He warmly defended the claims of the Judges, and the conduct of the legal profession. He said if lawyers had been found advocating unpopular measures they did it manfully, and openly. Some of the measures which they had been blamed for advocating, such as the Inferior Court, had been found to be beneficial, and had been so acknowledged by their opponents. He reprobated the policy which would desire that private funds should be drawn on to support the institutions of the country. He denied that any taxes were levied on the Province except County rates. There were many reasons why institutions under a Monarchy should be on a larger scale than those under a Republic. He assumed it to be the desire of his constituents that the Judges should be paid according to their just claims, and he declared that he would no longer represent them if they instructed him

to say otherwise. He approved of the suggestion that the Supreme Court should not be held more than once a year in the country, now that the Inferior Courts were established, and concluded by enjoining the House on account of the justness of the claim before them, on account of the high character of the claimants, and on account of the recommendation of the President to give the matter full consideration. The House, however, turned a deaf ear to all such arguments, and refused to refer the memorial to the Committee.

It was in the session of 1830 that the "Brandy question," so famed in the annals of the Province, caused the greatest contest which had yet taken place between the House of Assembly and the Council. A serious loss to the Revenue resulted from the action of the Council. It has, however, given to later generations a very excellent picture of our House of Assembly at that date, and the stuff our forefathers were made of. Eloquent speeches were made by the leading members of the House evincing very accurate knowledge of their constitutional rights, and more, their unflinching determination to stand by them. No one was more eloquent or more practical than Stewart. The dispute as is well known arose out of the refusal of the Council to agree to the imposition of an increased duty of 4c per gallon on brandy which the House had imposed. The day after the rejection, the existing revenue Bill expired and the Customs authorities were thus unable to collect any duties on brandy imported. Stewart immediately introduced a new revenue bill in the place of the one rejected, on which the discussion arose. After John Young, and S. G. W. Archibald had spoken with great force, and ability Stewart rose, and delivered one of the ablest speeches made on the subject. The following interesting account of what he said and the impression made on the public is taken from the "Reminiscences of our Native Land" published in the Acadian Recorder.:

There was certainly no room for doubt as to the views entertained by Mr. Stewart on the action of His Majesty's Council

in dealing with the revenue bill. Others, said he, might do as they pleased, but he would not barter the birthright of those who sent him to the house for a mess of pottage. In entering upon a close argument of the question, the hon. member asked: What is the contest between the house and the council? It was simply: shall the people tax themselves as Englishmen did, or shall nine persons appointed by the King tax them? That was the question. It had been accidentally discovered that the province had lost £2,700 by a mistake in the law of 1826, which imposed a duty on foreign brandy, gin and cordials. The legislature intended that 2s. 6d. should be paid, but in consequence of the error only 2s. had been collected. In the exercise of their privilege, the house had simply rectified that error. Even if that had not been necessary, provided the house thought fit to increase the duty on brandy, it was clearly within their right to do so. The council, on the other hand, said that the house must take such a tax as they proposed or none. The place had thus been reached where the house should make the stand. The evil must be stopped at the threshold. It should not be permitted to enter the doors of the people. It was a fundamental principle of British liberty, consecrated by the wisdom of ages, that a British subject's property could only be divested from him by his own act or the act of his representative, freely chosen by the people. If the house violated the trust reposed in them, their constituents could turn them out of their trust. But they could not turn out of office those whose situations were dependent upon the Crown. Who would wish to see the power of taxing the people vested in any twelve men, appointed by the King, however high, worthy and respectable they might be? Words need not be wasted in this matter. The right of taxing the people belonged to the people themselves, and he, Mr. Stewart, for one, would not surrender that right to His Majesty's council. It was a right so inherent in a free British subject that if His Majesty's royal instructions—if an act of the British parliament provided otherwise, if it had been waived, surrendered, or abandoned by those who had preceded the present house, he would regard neither mandate of Majesty, nor the provisions of the parliament, nor the

concessions of former houses of assembly. The right was inalienable and could not be abandoned. It was inherent and could not be divested. The representatives of the people were but their trustees in this matter. Their power was limited—they had been given no authority to grant or to sell their rights. Civil liberty had been found to depend upon political freedom. It was the bulwark which surrounded, guarded and defended it. The right of granting aid by the subject to His Majesty was the foundation, the pillar, the buttress of political liberty. Precedents in English history could be quoted to show where the Commons of England—the poor Commons, as they called themselves—besought the Lords to furnish them with a half dozen discreet peers to assist their ignorance. But what would the Commons of England say, at this day, if that precedent were cited for their guidance? In Nova Scotia, many years ago, the governor expelled a member from the house, but what would the house now say if such a power were attempted to be exercised? Precedents could be shown where the Assembly of Nova Scotia, in the good old times, requested the council to assist in framing revenue bills, but were they worth a single farthing? At this crisis the house were brought back to principle. The money of the subject was his own. When it was given, he gave it. It was produced by the sweat of his brow. It was the produce of his honest industry. It was his own. It was a matter, said Mr. Stewart, both of apt illustration of his argument and singular to observe how, from time to time, the Commons of England resorted to the principle when they saw anything in the progress of their deliberations which had the remotest tendency to injure or abridge their right of taxing themselves. The hon. member read from Hatsell: "It might be admitted that the Commons did not always insist with the same precision and exactness as they have done of late years upon their privilege that the lords should make no amendments to bills of supply." There were a number of instances, particularly before the revolution, where the lords made amendments to bills of that nature, to which amendments the commons did agree. Yet at that period they appeared to have been maintaining the principle that all bills of aid and supply or charge upon the people

should begin with them, and that the lords should not commence any proceeding that might impose burdens among the people. But they soon found that under the pretence of making amendments to bills originating in the commons the lords inserted matter which had the appearance of trenching upon the privileges of the people, so that after several discussions and conferences the commons found themselves obliged to lay down the rule more largely, and to resolve that in all aid given to the King by the commons, the rate or tax ought not to be altered by the lords. Within a very few years after 1678 the doctrine was carried still further, and the commons refused to agree with the lords in some amendments which they had made and which related to the distribution of forfeitures. At length, on the 3rd of July, 1678, they came to the resolution that all aids to His Majesty in parliament, were the sole gift of the commons, and all bills for the granting of any such aids and supplies ought to begin with the commons, and that it was the undoubted and sole right of the commons to direct, limit and appoint in such bills the ends, purposes, considerations, conditions, limitations and qualifications, which ought not to be changed or altered by the house of lords. It was thus observable that the commons never lost sight of the principle. In Nova Scotia frequent conferences had been held by the house with the council in matters of revenue, and friendly suggestions had been received from the latter which had sometimes been acted upon and, at other times, had not been accepted. But were His Majesty's council now to contend that, although they could not directly amend a money bill, yet that in conference or by message—for the council had resorted to both—they should say that unless the house imposed upon their constituents just such burthens as they thought they were able to bear, notwithstanding that they had already informed them that they would not alter their bill, they should have no revenue at all? What was that but amending a money bill in a more odious manner than if the amendments had been tacked to the bill and sent to the house, as amendments to other bills were. It had been said that the house should wait until the people themselves complained that their rights had been infringed. For what purpose,

Mr. Stewart asked, were the members sent to the house? Clearly to act as sentinels, to guard the outworks and to be the first to meet and avert impending dangers.

The member for Cumberland, at this stage of his argument, entered into a most exhaustive review of the action, at various periods, of the British house of commons in their contentions, on the vital subject of granting supplies, with the house of lords, quoting largely from the records of the former body. In the course of his reading he was interrupted by Mr. Hartshorne, the member for Halifax, who asked him to read from the journals of the lords. Mr. Stewart replied that when he was contending for the rights of the commons of Nova Scotia, he preferred to search among the commons of England for his precedents; but what would the journals of the lords prove? Simply that hundreds of years ago they contended for the right of interfering with the money of the people, and that they had virtually abandoned it for a century past. Mr. Stewart then took care to explain that he did not deny the right of His Majesty's council to reject a money bill, but the manner in which they had now exercised it would divest the people of the right of taxing themselves, if the house did not stoutly resist them in their policy. So cautious were the commons of England in this matter that they would not vote the supplies for the great public services of England but for the period of a year. The navy, army, ordnance and miscellaneous services had been called "the title deeds of the commons' annual sessions." And here Mr. Stewart took occasion to advert to the pernicious effects which that statute of the Imperial parliament that had called forth so much laudation in the colonies, would have upon the independence of the Colonial legislatures. By the operation of the 6th, Geo. 4, cap. 114, an annual permanent revenue was paid into the treasury of this province. The public service did not, as formerly, depend upon the supplies annually voted by the house. He had always viewed that statute with regret. In the first session in which he took a seat in the house he unreservedly declared his opinion of it. It might reasonably be doubted whether, consistently with the opinion of the

constitution, any part of the revenue collected under its provisions could be applied to any uses or purposes fixed by the legislature subsequently to the passing of the statute in question.

In concluding his remarks, Mr. Stewart hoped that the impending danger to the rights and utility of the house might yet be averted. For his part he had endeavored to show that the members were justified by the principles of the British constitution in the course they had, so far, pursued. He had anxiously sought for some mode of terminating the differences between the two houses without abandoning those rights of which he was one of the guardians, but he had discovered none. The character of the people of Nova Scotia was greatly misunderstood if it was suspected, in any quarter, that they would barter their rights, either civil or religious, for money. As for dissolution of the Assembly—that threat to him was like the passing breeze. He had always been ready to resign whenever his constituents desired it. To him it had ever been a seat of labor and anxiety, and now it had become by no means an enviable office. If a dissolution took place, the people could, if they thought their representatives had done wrong, reject them at the polls. But, speaking for himself, he desired simply to say that when he was invested with his present trust he pledged himself not to betray the rights of his constituents. The right of taxing themselves was the foundation of all the other rights of the people, and if they were to be sold he, at all events, would not be a party to the contract.

The following extract from the same writer gives in very apt language the character of the House and the outside opinion of Stewart's abilities.

It was the remark at the period—1830—that the capacity and intellect of a legislative body could only be judged by its acts and its speeches. The acts of the house of Assembly—elected in 1827—showed that it was in nothing inferior to any house that had preceded it. At no period of the political history of

the province, from the days of Barclay, Blowers, the first Wilkins and others of that class—when a number of men, educated in other countries, were thrown by the circumstances of the times into the assembly—had there been a house that could compare with that of 1830 in those qualities which were essential to public discussion, and which gave to a legislative body its richest charm and its highest elevation. No one of the previous assemblies had furnished such brilliant debates as the Custom House matter, the Quit Rent, the Catholic petition or the Revenue question had called forth. The fact was that the speeches on all those questions has been copied into the newspapers of the neighboring colonies with warm but well-merited commendation. It was equally a fact that thirty thousand copies of some of the speeches upon the Catholic petition had been circulated by the English Catholics all over the Kingdom. These were unmistakable evidences pointing to the advancement which Nova Scotia had made in the science of government and in the love of civil liberty. Strangers—even distinguished members of the British senate, had listened to some of the leading debaters in the house, with an attention as flattering as it was expressive, and had, on various occasions, declared their gratification at the high order of intellect by which the sessions of the legislature were frequently swayed.

The debate on the brandy question, in the treatment of all its features, was not confined, so far as the denunciation of the conduct of the council was concerned, to John Young and S. G. W. Archibald. Alexander Stewart followed the learned Speaker, and Beamish Murdoch also took a leading hand in. The "chief among them taking notes" who was attached to the "Club" kept that institution well posted as to what all the debaters had said, and the effect that Stewart's speech had upon the public mind may be fairly gauged by the manner in which the astute members of the "Club" applauded the sentiments of the eloquent member from Cumberland. All the old chaps, it was represented, were seated around the festive table. Having filled a glass, Holiday rose and said:

HALIDAY.—Extraordinary occasions, they say, bring out extraordinary talents, and therefore, as this is a sort of jubilee, we must not adhere to our old fashion of sipping our beverage, as old maids sip their tea, but must fire away while there is a shot in the locker. Fill again, my hearties, and never doubt that our CAPACITIES will enlarge with the necessities of this great occasion.

MERLIN.—Faith will we, my boy, for hurraing dries up the throat sadly.

HALIDAY.—A bumper for my friend STEWART, who, on this question, also ably supported the cause of the country, advocating the rights of the house with his usual command of words and more than his usual command of temper. Allow me to bring him before the notice of this "Club," and say to him in its name, as the House of Lords said to Lord Peterborough, that he stands in our regard as a person of great worth.

OMNES.—Stewart's health—Hip—hip—hurrah!

MERLIN.—Frae what part o' the kintra does Stewart come? By his name I should judge he was o'Scottish extraction. The bodie is too plump to be a descendant o' the family of the Pretender; but he may hae sprung frae the Stewarts o' Clackeasay.

HALIDAY.—Stewart represents the county of Cumberland, which joins the province of New Brunswick, and if he has sprung from any Scotch clan, it must have been one upon the border; for in his professional capacity he makes a practice of plundering on both sides of the line. Now you see him laboring away in the Court at Amherst or the River Philip, fighting for sheep, cows and black cattle like a regular descendant of Clackeasay; and anon he is to be found pleading causes in the courts at Dorchester or Frederiction, or stealing across the line with his pocket well-lined with the produce of his professional toils.

Among those who defended the action of the Council were Richard John Uniacke, Jr. It is only referred to here because

of a reference made to Stewart. He said, "I have heard it said by the Hon. gentleman for Cumberland, that sooner or later there must be a rupture with his Majesty's Council, and we had better come to it at once. What is meant, or intended by language like that? I see no reason why we should have such a rupture as I fear, right or wrong, some persons are bent on having it. I have no desire to bring it on; but, Sir, when I hear of such sentiments, I take it for granted that there is some secret motive operating to which everything that is valuable must yield. I will not attempt to draw the curtain aside, Sir, and expose the feelings by which such expressions are produced." Stewart made no reply to this insinuation, and it may be inferred there was some truth in the suggestion that he was pressing his views that the Council must be reformed.

The bill introduced by Stewart was passed by an overwhelming vote, and transmitted to the Council for concurrence and by the Council promptly rejected.

The matter was not allowed to drop. After a very able discussion of constitutional rights in which Archibald, Murdoch and others spoke in defence of the action of the House and Uniacke for the Council the Message of the Council was submitted to a Committee of the House, of which Stewart was made Chairman, to make a report, which they did, and in no halting terms declared for the undoubted authority of the House in such matters.

A second Message was sent to the House by the Council defending their conduct, and reflecting on certain statements made by Mr. Archibald in the course of his speech. This action of the Council added fuel to the flame. Stewart, then in an able and dignified speech addressed the House, and said: "As the subject before the House is one of very great importance I trust it will be considered with that moderation which is necessary to a cool, and wise decision. In all that we have yet done in reference to this important dispute, the conduct of a majority of the house has been marked by moderation, and firmness. I

trust that our language, and our measures will be so distinguished to the close. The message before us it appears to me may be divided into three parts, and I shall proceed to examine the first of these which relates to the charge against the honorable, and learned speaker (Mr. Archibald), and here let me observe that the debates of this house are published. Our deliberations go on under the eyes of our constituents, and as the remarks of gentlemen on the one side are replied to by gentlemen on the other the bane and the antidote invariably go together. Our discussions are carried by the instrumentality of the press to every corner of the Province, and whenever assertions are made affecting the conduct of public men, or public bodies, the answers to those charges are also spread abroad, and the public are thus put in possession of the materials for the formation of a correct decision. If the charges are false and can be refuted, no injury is done; if they are true, the conduct of the accuser is justified, and the country is made acquainted with matters in which it has an essential interest. Therefore, I contend that if the hon. and learned Speaker made the remarks which his Majesty's Council find reported in the public journals his speech received the fullest answer it was possible to make. All that the Opposition could say was said, and if his argument and his language were neither satisfactorily gainsaid, nor repelled, it was I presume because they were unanswerable. The same remarks may apply to the case of the hon. member for Windsor. Mr. Dill has partly admitted in his place that his remarks may have been reported with a little more force, and pungency than he was conscious of employing in the debate, but he tells you that the charges he made were founded upon the communication made by the Collector of Excise to an hon. member of the house, and can easily be contradicted if they are untrue. It appears that a commercial house of which the hon. Enos Collins is a member did on the morning after the expiration of the revenue law, withdraw a considerable quantity of brandy from the warehouse. I will not say that Mr. Collins was privy to the transaction—of course I presume he was not, but as he is a sharer in the profits of the

concern I must say that it is for him a very unfortunate circumstance, for as Caesar said of his wife, the conduct of a man placed in so elevated a situation ought to be above suspicion, and therefore it would have been better for him to have paid the duties, than to have left himself open to such attacks.

I will now turn the attention of the house to what has been the course pursued in England in cases similar to that which we are now about to consider. And here I may remark that I cannot find a single instance where the Lords made such a charge against the Speaker of the House of Commons, as is to be found in the Message under our consideration. On the contrary I find that when Sir Phillip Francis made a most severe attack upon the conduct of certain lords—not a gross, and ungentlemanly but a most cutting attack, it was passed over without notice, so with the attack made by Mr. Brougham upon the House of Peers. He said that although it was the daily practice of the established church to pray that the Lord would endow the peers with grace, wisdom, and understanding, yet he was sorry their prayers were never heard, for by their acts they appeared to possess neither. But no message was sent to the Commons—no resolution that they would be justified in doing no more business was adopted. The charge was not even taken notice of by the Lords. But his Majesty's Council have not only called the attention of this House to the language used by its members, but they have decided upon it—they have called it gross, and scandalous, nor do they stop here, for in the very same paper in which they call upon us to punish our own members for attacking them, they call our acts in passing the revenue bills oppressive and unjust. (Here Mr. Stewart turned to the message and commented upon the different clauses) Sir, I will ask if in the Revenue Bills which we have twice sent up there is anything to warrant such language? Is there any oppressive tax in those bills? Have we laid any duty which can be called unjust? And yet we are distinctly charged with injustice and oppression. Our right has never been questioned to originate

revenue bills, and therefore the language of this message is a direct breach of our privileges, for the Council say in plain terms that unless the house originate, and pass just such a bill as they approve, they will not pass it. (Here Mr. Stewart again turned to the message, reading part of it, and commenting upon it). The Council say that the most youthful lawyer knows the language in which the King refuses his assent to a bill of supply. Now with all due deference to the wisdom and learning of His Majesty's Council I will say that although we know the language in which the assent of the Crown is given to a money bill, not a single instance is to be found on record where a bill of supply was refused. Now Sir, let me turn your attention to the peculiar wording of that part of the Message which relates to my hon. friend for the town of Windsor. "A Mr. Dill" is the phrase used to point out the unfortunate offender. It is a trifle Sir, but trifles serve to show the play of men's feelings, the operations of their minds, and when I remember that on a former occasion where an honorable member of this house chanced to incur the displeasure of the Council he was styled Thomas C. Halliburton, Esq., in the message which conveyed the complaint. I cannot but regret that on this occasion they have not thought it expedient to use the same courteous and decorous language. I think if we were to say "A Mr. Collins" in any message which we might have occasion to send up that it would scarcely be pleasing to the honorable body of which he happens to be a member.

With your permission, Sir, I will now turn the attention of the Committee to what took place in the House of Lords on the 14th May, 1861 (Mr. Stewart here cited the case of Lord Peterborough in the House of Lords, when that House refused on complaint of Lord Peterborough of words spoken in the House of Commons by Mr. Tate to take any cognizance of it, but contented themselves with a declaration that Lord Peterborough stood well in the opinion of the House). After dwelling on the different bearings of this case, Mr. Stewart observed that he thought it would be better for His Majesty's Council to direct the President to say to Mr. Collins, as the House of Lords had said to Lord

Peterborough, "that he stands in the good opinion of that body as a person of great worth, and honor, notwithstanding what had been said of him by "A Mr. Dill." Sir, if the freedom of debate is to be curtailed in this house, if members here are to be tied up to particular forms of expression, if in the heat of debate they are to be restrained from the utterance of what concerns the interests of the Province for fear of offending the delicate sensibilities of some member of his Majesty's Council, there is an end to our boasted privilege of freedom of speech—an end to the usefulness of public discussion. There has not been an instance of such interference in Great Britain for one hundred years. The lords repose upon the general character of their proceedings, and wisely trust to the wholesome operation of public opinion. The last case I can discover occurred 130 year ago. But, Sir, to say the least of the removal of the brandy by the house of E. Collins & Co., it was very unfortunate. I will not weary the house with further remarks, because I consider it unnecessary, for even if we were disposed to consider the charges which are made in this message against the honorable Speaker, and the honorable gentleman from Windsor, other parts of it are so objectionable—so unparliamentary, and so insulting that we should degrade ourselves in the eyes of the country, and the world, if we were to give it any other answer than that which is contained in the resolution which I hold in my hand. We are told distinctly that unless we pass such a bill as they require, it will not be assented to, and our own acts are declared to be oppressive, and unjust. Surely such language ought not to have been used in a document complaining of the license used by honorable members. They tell us that they will only agree to such a bill, ere we have any before us. I am aware that in a former case a different course was pursued from that which I am about to propose, but although I acted with the house on the former occasion, and although I disapproved of the language used by that honorable member I sincerely regret those proceedings, and I trust they will never be drawn into a precedent, because if they were, they would have a tendency to abridge, if they did

not altogether destroy the freedom of debate." He closed his address by moving the following resolution which was seconded by Beamish Murdoch—Resolved that though this House is and always will be desirous to uphold the dignity and respectability of His Majesty's Council, and on all proper occasions take such order as may be requisite thereon, on application to this house respecting the same, nevertheless the opinion passed by His Majesty's Council upon the proceedings of the house in their resolutions of the 7th inst., and the uncourteous terms in which those opinions are expressed, preclude this house from taking the subject matter of those resolutions into consideration."

This resolution led to sharp debate in which several members took part, and among others Mr. Bary who had been expelled in the previous session. He attacked Stewart vigorously, and among other things said, "If there is one seat more honorable than another, it is that which I occupy (a roar of laughter) I hear the hoarse laughter of the hon. member for Cumberland. Let me tell that gentleman that I care as little for him as he says he does for the despatches from his Majesty's Council."

These remarks are only quoted as showing that Stewart seemed to be recognized at that period as one of the determined opponents of the Old Council of Twelve with its closed doors. Stewart of course replied trenchantly but it is not of sufficient interest to reproduce here.

Richard J. Uniacke then took the floor, and made a very strong speech in favour of the Council, and in course of it fell foul of what Stewart had said, and moved an amendment. This called for a reply from Stewart which was given with no bated breath. "He regretted that the minority had again created so much heat in the discussion. I endeavoured, continued Mr. Stewart, to introduce the subject to the house with perfect coolness, and I trust the manly determination which has distinguished the majority from the commencement of this dispute will bring us to a useful, and honorable result. We, Sir, as well as His Majesty's

Council I trust have consciences, but liberty of speech, Sir, is the gift of God, and let us not tamely resign it. When the Hon. gentleman for Cape Breton (Mr. Uniacke) says he had heard me speak of the charges given upon the hustings, I will repeat again that when the hardy yeomen of my County grasped my hand at my election, the most impressive charge they gave was to defend, and foster their rights and I am not at all afraid that they will censure me for my conduct on this occasion. Another charge has been made against me that I was in the Speaker's chamber as a member of the Committee preparing the report. This is a charge to which I willingly plead guilty, and in a crisis like this I am willing to give my labor either by night or by day to the good of my country. I have brought this message under the consideration of the house without heat or temper and I do not wish or intend to give it the go by. I talk not of His Majesty's Council as a private individual, but as a public body, as a branch of the legislature. Much has been said about gentlemen making apologies, but let me tell members that there is a mode of asking an apology so offensive as to preclude compliance with the demand. Shall we then refer to a Committee to say whether the Speaker shall be censured? The hon. gentleman for Cape Breton tells me that precedents are in his favor, but I have searched for precedents, and can find none to justify this extraordinary attack upon the head of this house. Liberty of Speech, Sir, is part of the inheritance of freemen, and we ought to be careful how we allow it to be curtailed."

Stewart's resolution was carried by 33 to 3, Uniacke, Harts-horn and Bary composing the minority.

The last move at this session on this important question was again made by Stewart, who offered the following resolution which was duly passed;

"Resolved, that the payment of any sum of money whatever out of any other branch of the Provincial revenue which shall not have been sanctioned by an appropriation Act passed in

the usual form or by some other statute of the General Assembly, of this Province will not be made good by this house but this house will consider such payment as a breach of duty on the part of all persons concerned therein, and will hold them civilly responsible for the amount of any such payment."

The Council after this in reply to a request of the house to send down all such votes and resolutions as were still standing as the house was desirous to complete the Appropriation Bill, answered, "That no message could be received from the House of Assembly." Before any further action could be taken His Honor the Administrator of the Government summoned the Members to the Council Chamber, and prorogued the House in a speech which reflected the opinion of the Council.

In consequence of the death of the King George IV. on the 26th June, 1830, the House of Assembly was dissolved, and writs for a new election were issued. Stewart, with his colleague Joseph Oxley, was again returned for the County of Cumberland with an overwhelming majority, as were all who had fought on the same side.

The house was called together for business on the 8th November, when Archibald was unanimously elected Speaker. The Brandy question at once commanded its attention. It was placed in the hands of Stewart to bring the question before the new House. In the Committee of Ways and Means he submitted a resolution that a duty be imposed on Brandy practically the same as in the rejected bill at the previous session. A great debate then ensued in which the leading speakers on both sides expressed their sentiments, and it soon became apparent that the Council had gained little by the dissolution. Stewart took a very leading part in this discussion, and was severely assailed by the champions of the Council as a disturber of the peace which had hitherto reigned throughout the Province. Stewart, however, met his antagonists with unflinching determination. When it was argued that the Council would again reject the bill, among

other things he said, "Sir, I have endeavoured, and so far as lies in my power I shall still endeavour to avoid a rupture with the other branch, but will he tell the Committee, Sir, that we who are a new house, who came here ignorant of, and unbound by previous Acts of former Assemblies cannot impose a four penny duty upon an article for fear it may give offence to some other branch of the government? If we are a new house, the Council as regards us, are a new house and neither have anything to do with former differences and contentions. We are to lay such duties as from a view of our wants and resources we think necessary to raise a revenue, and in my conscience I believe that the article of Brandy can fairly bear, and ought to bear the duty I have named. I am here, Sir, as a free and unbiassed representative of the people to give my opinion according to my best judgment. That opinion I have given upon this matter, and I should like to know what is there in my sentiments, or my conduct to justify the remarks which have been made? There is no quarrel between the two branches and I trust too there will be none. I will not anticipate a continuance of the evils which the country has already suffered. I will not for a moment believe, although I hear it whispered about by those who may be in the confidence of the Council. I cannot believe Sir that a bill framed by this house for the purpose of raising a revenue, upon due deliberation, and from a full view of our wants, and resources,—a bill which oppresses no man, and which lays the taxes fairly, will be rejected upon any punctilio that the Council are bound to follow up with this Assembly—any differences which it may have had with former houses.

Mr. Bliss, afterwards Judge Bliss, who had been returned for Hants County, took up the Council's side and replied to Stewart who in answer to the argument asks what the Council would do again said, "But, Sir, is not this absurd? Are we not as regards each other, new branches of a new legislature, and are we to refer back, and revive differences in which perhaps warm feelings were excited on both sides, but which no longer exist. We are here assembled to detremine what duties ought to be imposed. Here

no stand has been taken, and, Sir, I cannot, and will not believe that for so trifling a matter as this, the Councils of this hitherto quiet, and happy Province will be again disturbed. But if that is to be the case, we should now weigh the subject calmly, and make up our minds to adhere to such duties as we may see fit to impose." Mr. C. Fairbanks to the surprise of many then came out in favour of the Council, and attacked Stewart, and the resolution he had prepared. To the old argument of what the Council would do Stewart in answer to Fairbanks said, "Are we to be controlled in this way, Sir? Are we to be told that we are to suspect, to imagine what are the opinions of another branch, and conform our legislation to those opinions, instead of making it expressive of our own? Are we before we determine on a measure to cast about, to ascertain whether or not it will be agreed to? But, Sir, have we been at all disposed to send the same bill back to the Council, as some gentlemen were apprehensive we did intend to do? Have we not struck off the duties on some articles and reduced all the duties upon the necessaries of life? I, Sir, disclaim all intention of disturbing the country, but I conceive I am bound to do my duty as a member of the Assembly without reference to any other body."—And later he says, "But the house would not be alarmed or disturbed by the forebodings of the hon. and learned gentleman—it was highly improper to endeavour to terrify members by threatening them with the probable rejection of the bill. He regretted the injury the Province had sustained but he must tell the hon. and learned member who had condemned the conduct of the last house in a manner so uncalled for, and so unceremoniously that he would rather see the Province suffer tenfold that injury than that the Council should obtain what they had contended for, a right to interfere with the taxation of the people. Should this ever happen a seat in that house would be of little value or utility. He had hitherto avoided as much as possible any recurrence to past events, but after what has been said on the subject of them by the honorable gentleman, justice to himself obliged him to state that his constituents had approved of his conduct. He

feared not their censure, while he contended for their rights. They wished conciliation not degradation. They desired to possess the liberties of Englishmen. Was it by following a course dictated by fear that they had become respected throughout the world? It was not by following such counsels as those of the learned gentleman. His desire was to see peace restored, but he was not willing to pay so high a price in its purchase as had been proposed by the hon. and learned gentleman."

This matter having been disposed by the adoption of Stewart's resolution he proceeded further in the same direction. As stated by the writer of the Reminiscences, "Following up the principles of Responsible Government which he had so fearlessly advocated on the hustings, and on the floors of the House of Assembly, Alexander Stewart moved a resolution for the appointment of Committee to prepare an address to His Majesty requesting that he would be pleased to declare his Royal will and pleasure on the bill for providing for the Custom House established in this Province. Mr. Bliss (and Mr. DeBlois for the town of Halifax) was opposed to this motion, which however was carried by a vote of 22 to 10. Stewart in replying said, "he regretted that the hon. gentleman for the town of Halifax was so sensitive when there was not the slightest occasion. He should like to know when those attempts at improper legislation had been made? Could the hon. gentleman point out an instance? He had moved the address because by having the bill assented to, the saving would be very great, and besides the Custom House Officials would be obliged to furnish quarterly accounts to the house, whereas under the existing condition, these were only obtained by an enquiry through the Executive, and were paid for by a separate vote. Another important consequence which would result to the trade of the country would be that duties could then be paid into the Custom House in the currency of the Province, instead of gold and silver at rates that were in some measure oppressive.

The result of the dispute on the Brandy question was that the Council quietly accepted the bill passed by the House, and

thus terminated the unseemly dispute in which the House of Assembly led by Stewart firmly vindicated their rights against the encroachment of the Council. It is difficult to understand how even in such a superficial compilation as the so called "Campbell's History of Nova Scotia" Stewart's name is not mentioned as taking any part in this important contest, while the names of others with their speeches in some instances are given in full.

In the next session Stewart is found active, and prominent in attacking another monopoly. The only bank then in existence was The Halifax Banking Co., a private partnership, of which Mr. Cogswell, and Mr. Collins were the chief members. These two gentlemen with other shareholders were members of the Old Council of Twelve. It was found that this Bank was using its powers most oppressively, and a movement was made to incorporate another Bank—the Bank of Nova Scotia. The Council and their friends in the House of Assembly bitterly opposed the establishment of another Bank. Stewart, it appears had subscribed for stock in the new Bank, but when the opposition arose he withdrew his name so that he might advocate the cause. Stephen DeBlois, a member of the town, was a zealous friend of the old bank, and he resolutely stood in the way of the progress of the Measure. "But at each step," says the editor of the Reminiscences, "he was adroitly pushed aside by Alex. Stewart, who at the outset declared that the bill was of great importance to the Province, and even to the very existence of the House as a free legislative body. He had no hesitation in saying that there was a despotic influence exercised over the country, and that the sooner the bill was adopted, the better. To avoid all appearance of interest biasing his judgment Mr. Stewart informed the house that he had withdrawn his name from the subscription list where it had been down to the extent of £1000—he had therefore nothing to do with the speculation and intended to keep out of it."

The following extracts from the Reminiscences describe the subsequent course of matters:

The two leading members of the house of assembly—the most experienced parliamentarians at least—Alexander Stewart and John Young, sparred, one with the other, very dexterously over the bill to grant a charter to the Bank of Nova Scotia. The latter, however, was somewhat provoking in his movements—so much so in fact that Mr. Stewart was tempted almost to go outside the severely legitimate practice of the assembly, in meeting the peculiar method of attack that, in the treatment of this matter, characterised his opponent's conduct. Mr. Young, whose policy of silence at the outset, had called forth a satirical remark from Mr. Stewart, took the ground that the outline marked by the bill was an unsafe course to pursue. The track of the English and Scotch banks, in his opinion, the only safe one to follow, and in alluding to the Scotch banks he declared that in case of mismanagement of directors the stockholders were liable to pay. In consequence of the many failures of banks in the United States between 1820 and 1826, the plan of the Scotch banks had been, in a great measure, adopted in that country. The house, it was evident, was being impressed to a considerable extent by this ingenious suggestion of a safeguard that carried with it so much of security to the depositor, and the advisability of its adoption, in respect to the proposed charter, was considered not unreasonable in view of the fact that a painful experience elsewhere had made it necessary that the liability of the shareholder should be so exhaustive. The fact was that Mr. Young had caught the ear of the house, and it was plain to the advocates of the measure that if the strong feature he had so adroitly introduced was permitted to be embodied into the charter, the Bank of Nova Scotia would have to postpone its opening until a more convenient season. Private banks—Mr. Young drove home his safeguard suggestion by declaring—were bound to make good all loss, no matter from what cause, so far as their property extended, but according to the bill to incorporate the new bank the directors and shareholders were, to a great extent, irresponsible. Its principle in that respect differed from any other bank of the kind.

The member for Cumberland, and the member for Sydney, had, up to this time, usually worked together in the house in the promotion of those measures that had, within them, the elements of reform—of progression, but in the matter of the new bank, they evidently viewed matters from different standpoints. Mr. Stewart said that Mr. Young, in his opposition, seemed to be directly against the principle of charters although he declared that he was not hostile to them. He seemed to entertain the view that the measure differed from all others respecting irresponsibility, while the fact was that the New Brunswick bank was precisely of a similar character. It was a matter greatly to be desired that the opposition of Mr. Young could be clearly understood. He seemed to be bent on keeping the house in the dark. The friends of the new bank could easily understand the open opposers of the measure and the advocates of the Halifax banking company, but they could not understand the intentions of the hon. member for Sydney. Mr. Young replied with much warmth to the incisive observations of his quondam friend. He had never thought of opposing the principle of incorporation. It was good if properly guarded. The case of the New Brunswick bill might or might not be as had been stated, but were there, he asked, no other clauses in it which checked and guarded mismanagement? Mr. Young then referred to a pamphlet for a bill regulating a bank in the state of New York, which stated that shareholders should be responsible for loss occasioned by directors, and, in his judgment, it was only fair that they should for they had the sole choice of them. This reference—now made for the second time—to the extent of the liability of the shareholders of the chartered banks of other countries, gave Mr. Stewart the opportunity that he had been eagerly waiting for. He rose in his place and then—to quote from our reporter's notes—the debate took this turn:

I consider it my duty both to oppose and expose fallacious arguments. Public characters belong to the public, and by severe tests alone are men tried. I now call on the member for Sydney to read the WHOLE of the passage which alludes to the New York bank.

Mr. Young proceeded to read the passage: "the holders of stock at the time of mismanagement shall make good any loss."

Mr. Stewart—Read on.

Mr. Young (reading) "provided that no one shall pay more than the amount of stock held by him at the time." (Much laughter).

Mr. Stewart: the house has now had the satisfaction of having heard the whole of the article on this point. As first read, it appeared that stockholders were held liable to the extent of their property, whereas what followed showed that they were only liable to the amount of shares held.

The new bank had yet to pass through a more trying ordeal. It had to face His Majesty's Council. It had to go before a board which James B. Uniacke said, in the course of the debate in the assembly, differed little except in the colour or form of their table from the Halifax banking board. Supported, however, by a very substantial majority of the lower house, it was sent up to the Council, but when it came out of that chamber it bore the marks of a somewhat severe handling. It was not permitted to any body to know by whose particular hands the bill had—in the eyes of the promotors—been disfigured, because no stranger was allowed behind the screens except Joseph, the messenger, who put the coals on the grate to keep the "old women," as Sam Slick irreverently called the council of Twelve, warm. The house was informed simply that His Majesty's Council had passed the Nova Scotia bank bill with AMENDMENTS. The house, of course, got its "dander up" at once, and as it was more than suspected that "the cute man," Hezekiah Cogswell, the president of the Halifax banking company, had been the skilled artizan that had undertaken to give the bill another shape from that in which it had been moulded by the house, it was moved that a committee be appointed to search the journals of His Majesty's Council for the purpose of finding out some particulars in regard to the treatment of the bill. Mr. Bliss was entrusted

with this mission, and he went to 'beard the lion with apparent alacrity. John Young and Alex. Stewart were not eager for the duty. He returned to the house with the bland-like announcement that it appeared that perfect unanimity prevailed on the subject of the bank bill in His Majesty's Council, and that there had been a full attendance of members, and no division had taken place on any of the amendments. He said nothing more. But Mr. Young and Mr. Stewart were not—viewing their own personal interests—quite so discreet. They both 'pitched in' without any circumlocution. Mr. Young remarked on the evil tendency of His Majesty's Council deliberating with closed doors. He thought the time was near at hand when the doors of that chamber would be thrown open by the force of a righteous public opinion. Mr. Stewart stated as his opinion that the acts of that body relative to the Bank bill would tend to quickly hasten the alteration which was wanted in the constitution of that branch. He expressed himself warmly on the seemingly interested influence which was exercised by the bankers in His Majesty's Council against the measure that had been adopted by the house after so much careful consideration. Mr. Bliss still kept a quiet tongue. And before the term of the parliament had expired, the hon. gentleman was snugly seated on the Bench of the Supreme Court; and he left Mr. Young and Mr. Stewart on the red benches to hammer away at the doors of the old council chamber.

Mr. Stewart at this period, and indeed from the time he first entered the house of assembly, was classed among the whigs. No man in the assembly was more watchful with regard to the encroachments of His Majesty's Council and the rights of the lower house. He was punished. The SILK GOWN which, naturally, he greatly coveted, was withheld. Of Mr. Stewart it may be said in this connection, that his talents were of a high order. As a debater he was bold, impassioned, energetic, and sometimes eloquent. Imagine to yourself, reader, a man of middling stature, of an impressively intelligent countenance, and about forty years of age, and you have a tolerable idea of

Alexander Stewart, the member for Cumberland. Mr. Stewart subsequently recovered himself somewhat in the eyes of "the old women" and was selected by Sir Colon Campbell as one of the newly-formed Legislative Council in 1837.

The question of the right of appropriating the Revenues of the Province was still agitating the public mind. It had been repeatedly before the House, and addresses passed to the King on the subject. A dispatch from the Colonial Secretary had been sent to the Assembly by the Governor in the session of 1833, making certain proposals, but these apparently were not what the House wanted. A debate took place which was opened by Stewart who moved a resolution that a Committee should be appointed to prepare an address to His Majesty setting forth the willingness of His Majesty's subjects in this Province to contribute to the utmost of their means to the support of the Government when required so to do in the manner prescribed by the British Constitution, and the usages of Parliament, and humbly praying that he would be pleased to make such an order respecting the casual and other revenues of the Province now expended without the consent of the house as would render the application of the same subject to the disposal and control of the House. The passage of this address led to a reply communicated to the House at the next session agreeing to the surrender of the whole of the revenues in exchange for a moderate civil list. The salaries which were to be paid on the civil list were brought before the House but after discussion was rejected.

The session of 1834 witnessed the first formal attack on the constitution of the Council which was begun by Stewart. He moved three resolutions dealing with the subject, the general purpose of which was first to compel the Council to open its doors to the public during its deliberations on matters affecting the Province, secondly to reform the Council by an increase of its members chosen by additions from the country, and thirdly to take away its executive power by separating the legislative from its executive functions thus forming two distinct bodies.

Nothing definite resulted from these resolutions at the time, but the seed was sown which not many years after brought about a complete change in the Provincial Constitution. The important part he played in contributing to these great constitutional reforms has never been properly appreciated by his fellow countrymen.

It was during this session too that the House of Assembly appointed Stewart as their delegate to the Colonial Secretary on the subject of Free Ports in the Province. Hitherto they had passed addresses, and appealed in vain to the Home authorities to open more ports in the Province to the trade of the world. The restricted number at which goods could then be landed, and free intercourse carried on was seriously hampering the growing trade of the Province. Stewart was now authorized to present these grievances personally, and in the Journals of the house of Assembly, Appendix No I, will be found a full and elaborate report of his efforts. From this report it appears that he was in England in the Summer of the year 1834, and that he must have returned before the session which commenced in December of that year, and continued until the month of March. His activity in the session of 1835 is simply marvellous. His name appears either as chairman or a member of all important committees appointed by the House such as the Funded Debt of the Province, the Collector of the Revenues as it affected Provincial Commerce, Sable Island, and the Light House service, Public Printing, on wilderness lands of the Province how they may be made to contribute to the Revenue, and on other subjects. In most cases the reports bear evidence of his work and influence in shaping them, and they were generally accepted by the House. Again he is found frequently one of the members appointed to hold conferences with the Council on matters where that body differed from the conclusions of the House.

In addition to these labours he appears as prominent as ever in the debates of the Assembly making his voice and vote heard and felt on all subjects of discussion, and legislation. The same

may be said of him in the previous session, from all of which it can easily be understood he had grown to be one of the most trusted, and useful members of the House. In the session of 1836 the proposal to Unite Kings and Dalhousie Colleges came up in the House of Assembly. This proposition led to very long and acrimonious debates in which Stewart took a decided stand against endowing any religious body in preference over others, and contended that Kings College had hitherto been carried on entirely in the interests of the Church of England, and in a manner inimical to other religious bodies. He pronounced himself strongly in favor of a union of the two Colleges—thus providing for one which was sufficient not only for higher education in Nova Scotia but in New Brunswick as well. The measure had been introduced very late in the session and he contended there was not time properly to deal with a question of such great importance. He moved in amendment that no action be taken until the next session, which resolution was carried, and the matter deferred.

In this speech he made a noble argument for the freedom and extension of education to all classes irrespective of their religious views, and took strong ground against a grant to Kings College, Windsor, for the exclusive benefit of the Church of England. Among other things he said, 'When he beheld the Alumni of Kings College point to that long list of gentleman and scholars whose affections were riveted to that institution as their holy mother, not a syllable should escape his lips to detract from their merits. With exulting gratification he gloried in them as his countrymen, but he lamented that bigotry, which had confined these blessings to them alone, and that the sons of dissenters had not been permitted to swell the numbers of the illustrious band. He regretted that that institution had not been conducted upon more liberal principles, for then it would undoubtedly have proved more universally beneficial. Could it be denied that its unwise restrictions had brought into existence the Pictou and Horton Academies, the one at Isle Madame, and all the petty Academies which had since arisen in the Province? And it was

no manner of question that it had produced all the evils which had combined to place the Province in its present unhappy circumstances as regarded education. It was plainly evident that the Province could not support all these Academies with an additional College. Then could the House in justice to the greatest portion of the population of the Province, who depend only on the common schools for their education, continue the endowment of one College exclusively for the Established Church, and establish another without secretarian bounds? If so they were prepared to uphold these extensive institutions, and abandon all the other Academies, for it would be saying in effect that they would refuse aid to every other literary institution in the Province, and would grant nothing to any respectable body of men who asked for aid for the purposes of education.

If they were prepared in the present state of the revenue to attempt to provide for the permanent support of two Colleges, and all the Academies, then might the people of Nova Scotia well exclaim in case of failure in their funds for Common Schools, you have taken good care while legislating to provide for the children of the rich, but you have forgotten us the poor, and the education of our children. Such an Act would be but temporary—it would not stand the test of years. If members would legislate to any purpose, if they would proceed in such a manner as to render their acts conducive to the welfare of their constituents they must meet the question now before them broadly and where they did establish a scheme. it must be compatible with our free constitution, under such laws only, and so consistent with existing circumstances as would ensure the good will of the people by which only would it be rendered permanent."

The above are only a small portion of his remarks on this important subject which is of much interest at the present day, when it is again proposed that Kings and Dalhousie Colleges shall be consolidated into one Provincial University.,

Many of the predictions he then made have since been verified and the question of higher education in this Province remains in as unsatisfactory a state as in his day.

The General Election took place in 1836 when Stewart with Oxley as his colleague ran his third, and last election. They were opposed by Mr. McKim and Mr. Lewis, and after an intensely close, and bitter contest Stewart was elected by a small majority. Oxley being defeated by Lewis. As appears from the newspaper correspondence of the time the smallness of the majority which he hitherto a most popular candidate obtained, was due to a number of causes. He had removed from the County to Halifax some two years before and was as a consequence in less touch with his constituents than before. At this period too the great popular cry against returning lawyers to the legislature was in full tide. No less than thirteen lawyers had seats in the last House. McKim while a man of no prominence, and of no particular ability had traversed the County from end to end exciting the feelings of the people against him, and arousing even the religious feelings of one religious body by retailing scandalous, and untruthful stories relative to his public conduct, and sentiments. Stewart had been absent from the Province in England in the year previous, and therefore had no means of knowing or ascertaining the extent of the prejudice which had been set in motion against him. A powerful and active band of partisans led by his brother-in-law James S. Morse and Jonathan McCully then a young lawyer, strained every nerve to accomplish his defeat, and succeeded in rolling up a majority against him in the middle and western portions of the County. It was on this occasion he said to his exulting enemies "Wail until we get over Wallace Bridge" and his hopes were fulfilled by a majority which crushed them.

It was during this campaign that at the hustings he refuted the calumny that he had favoured one religious body to the prejudice of others. On being challenged he arose, and said, "I am glad of this opportunity of stating my religious principles which are, "Equality to all, and superiority to none."

McFim at once petitioned against his return, and in the session of 1837 the matter was brought before the House and evidence on the part of the petitioners against his election was taken. The House was prorogued before the investigation could be completed. The evidence on behalf of Stewart was not given. A bill was then introduced by Doyle, and supported by Young and others to enable the House to take up the matter at the next session at the point it had reached. This was contrary to constitutional usage, and was protested against by Stewart, but carried by his opponents. It did not however become law being rejected on the third reading. It only served to show the virulent spirit which actuated his adversaries. In the meantime, and before the next session of the Legislature Stewart was made a member of the newly constituted Legislative Council.

It should be here explained that in the session of 1837 despatches had been received authorizing Sir Colin Campbell, Lieut Governor, to constitute two Councils, a Legislative and Executive Council, thereby separating the two functions hitherto exercised by the Council of being at once a branch of the Legislature and the Executive to advise the Governor. The new Council were announced in the Royal Gazette, January 16th, 1838, as follows:

Rt. Rev., the Lord Bishop of Nova Scotia, Simon B. Robie, Peter MacNab, James Tobin, Joseph Allison, Norman Uniacke, James W. Johnston, William Lawson, George S. Mott, Alexander Stewart, William Rudolf, Lewis M. Wilkins, James S. Morse, William Ousley, Robert M. Cutler, Alex. Campbell, James Ratchford, Joseph FitzRandolph, and W. B. Almon, M. D.

These appointments it was stated were only made provisionally. At the end of the Session they all resigned, and on the 9th March, 1838, were all reappointed with the added name of Enos Collins. These appointments were confirmed by the Home Government after the House of Assembly had passed an address complaining of the selection. Stewart as might be well imagined in the discussion on the election petition proceedings was attacked

by Young and others with a great deal of asperity. Mr. Uniacke who was leader of the government in the House in defending the recent appointments to the Legislative Council referring to some of them coming from the popular branch said: "Mr. Stewart who was taken from the House (Mr. Doyle, "And who changed his opinions",) Mr. Uniacke—" That is the very best justification in the world. Turn to your Journals, and you will find that the very best men in the Legislature have changed their opinions. But no—he was objected to because he did not change his opinions, because he would not vote for the darling bantling of the Hon. member for Halifax last session."

Young appears to have taken an active part against him in which he was joined by other members opposed to the Government. Uniacke's allusion is evidently to Howe's drastic resolutions which Stewart refused to support. The House finally decided to give the seat to McKim, although no evidence was ever received in opposition to the petition. Stewart having then no motive in going to the great expense of bringing witnesses from Cumberland to the City, the petition was decided in McKim's favour without further inquiry whether Stewart would have been unseated on a full trial of the merits, therefore remained undecided.

A very good idea of Stewart's style of oratory and the bold and independent stand he adopted when the occasion called for it may be gathered from some extracts in his speech this session.

During a discussion in the House of Assembly in February, 1837, a serious attack had been made on some of the past legislation of the late house, and a bill brought in to repeal some of the Acts which had been passed. Mr. Stewart opposed the bill in an eloquent and animated speech of considerable length, but delivered with such rapidity of elocution says the reporters that we were unable to seize the whole of what was said and we are afraid our report will not do justice to that gentleman. We understood him to say that considering the seat which he now held might not afterwards be adjudged to be his, he had not intended to take part in any debate involving topics upon which the

public mind had been agitated, till the members of the reformed House of Assembly had accomplished those mighty measures of improvement of which their election speeches were so redolent. But he felt that it was his duty to himself, and to those members of the old house who were not present to repel the abuse which had been so liberally bestowed by the patriots of the present house on the acts of the former. If there was one thing which he desired more than another it was to meet his accusers on the floor of that house, to demand from them there, not in vague generalities, not in undefined and untenable charges, but distinct and specific details. What were those dreadful measures of the last house which had excited so much patriotic indignation? What were the practical grievances brought upon the Province by the unwise legislation of the last Assembly? He would yield to no man in the ardour of his desire to benefit the people, and he had invariably advocated those measures which he conceived calculated to promote that end. He did not regard the men who talk the loudest as those who were most likely to do the most, and though the members of the old house must certainly yield to their successors in that qualification he would crave leave to refer to the history of the last ten years to see if they had not been engaged in something more useful.

When first he had entered the Assembly an application was made by the Council for the punishment of Mr. Halliburton for some free expressions which he had used on the floor of that house relative to the Council. Their application had been granted and he blushed to acknowledge that he had been a member of the house in which such a demand had been acceded to. But had the application been some time later and the members better informed of their rights and privileges they would as soon have cut off their right hands as have yielded to such a demand.

"Sir, I must apologize to the house for the hasty, imperfect and undigested manner in which I have addressed it. I wished to continue silent. I have been aroused by indignation to defend the absent and defenceless many of whom are personal friends from a

gratuitous attack upon them and myself, to speak upon a subject of deep importance without sufficient preparation, and before I sit down I repeat my requisition, and demand in legal language a bill of particulars of our offences. I for one stand ready here to meet, refute and repel the unfounded charges which have been so widely circulated against the late house, if they should be repeated here."

NOVA SCOTIAN, FEBRUARY 23RD, 1837. PAGE 60.

As a good specimen of the mode in which Stewart met his adversaries in debate the following speech in answer to some remarks of the late Sir William Young may be given. Mr Stewart said: "I did not intend to say another word upon the present question, but I feel myself called upon by what has fallen from the others. It may be that the expressions which I let fall before I resume my seat may offend one who will have to pass upon my own election. (Referring to Sir William Young, who was chairman of Stewart's election committee) but I care not. Had the learned gentleman from Juste AuCorps (William Young) contented himself with what he set out for I should have been silent. But, Sir, the time has not yet arrived when that gentleman can, with impunity, stigmatise all those who may differ from him in political sentiments. Sir, I should be sorry if I did not stand ten thousand times higher in this Assembly than any man that ever bore his name or had his blood circulating in their veins. What right has he to tell me because I think proper to express my opinions that I am an enemy to of all reform. Have not other members a right to think, to feel and to express their sentiments as well as himself. And yet, Sir, the public eye, the public indignation, the public revenge, is to be turned upon us because we vote on that side of the question which in our consciences we think to be right. We are to be told that with the exception of the hon., gentleman from Cornwallis and one or two others whom he has enumerated, all the rest are to be put down as the enemies of the people. Sir, I have in times bygone been charged with advocating measures too radical, and I will not now yield in the ardour of my desire to benefit the people to any gentleman, however loud he may be in his profes-

sions of patriotism. Sir, every man's public conduct should be the test of his character, and I fear not to appeal to the part which I have taken while I have had the honor of a seat in this Assembly as the test of mine. I may allude to the salaries of the officers of the customs which exceed our Provincial resources. Year after year have I led the debates in the attempts of this house to obtain their reduction. I have invariably advocated the propriety of throwing open the council doors, of divesting the Legislative Council of its executive functions, yet now we are told to look at the division which is shortly to take place and mark as the enemies of reform all who shall be found in opposition to the bill before the house. I do not know that I sneered at the learning of the gentleman who on a former day gave the house such copious extracts from some chronological table. But, Sir, I thought that those who came into this house should be supposed to have some little acquaintance with the rudiments of history, and that it was but a poor compliment to them to be supposed ignorant of the details which formed the burden of the learned gentleman's speech on that occasion."

One of the last speeches Stewart delivered in the House of Assembly was on an amendment to Howe's celebrated twelve resolutions. In this speech as reprinted in the *Nova Scotian* on March 9th, 1837, at page 73 he states very clearly his position. He says "The resolutions on your table are a whole and have so been debated throughout this debate. They are a system and as such have been offered for your acceptance. They contain a principle dangerous to liberty, while they affect to extend, to perpetuate, and secure liberty to the people. It is pregnant with dangers of the most formidable character, and I fear it will inevitably separate us from that land to which it is yet at least our pride, our glory and our happiness to belong. An elective council? Sir, its advocates tell you that it will confer upon you British liberty. Sir, it will destroy the political institution by which that liberty is preserved. It will substitute for the high-minded independence of Englishmen the low and grovelling subserviency of democracy. This is not idle declamation nor am

I seeking needlessly to arouse your fears. The subject is one of deep importance. It concerns your children and mine. It is the first step, always momentous. You will I am sure bear with me for a few moments while I direct your attention to it. If in your consciences you believe that in the main we are a happy, peaceable and prosperous people, do not rashly impel them into political strife and discord and agitation. The responsibility is now with you. Before, however, I proceed it is but just to say that much of the present discontent is attributable to the Council themselves. Unwarned by their enemies, uninfluenced by their friends, regardless of the practice of the British Parliament and the colonies with a perseverance amounting to fatuity they have persevered to legislate in darkness until in this house, in this community, in the whole Province, there is but one voice; their advocates are silent. This house divided upon almost every subject is upon this unanimous. By what fatality is it that man thus clings to power till it is wrenched from his unyielding hands. Why did they not add to their numbers? Why not separate their legislative from their executive functions? The time has arrived when their house must be set in order, when this upper branch of the legislature must be reformed. Upon this subject also there is at length unanimity among the representatives of the people. Sir, it were unjust to the hon. member for the County of Halifax to attribute to him the crisis at which we have arrived. It is to the impolitic and unwise retention of power that it is mainly to be ascribed. Reasonably moderate concessions to the wishes of the people would have averted this discussion. They disregarded our warning, they think the people are careless. They are in error. The people are shrewd and intelligent observers. They know that civil liberty depends upon political institutions. Already the elective principle is becoming acceptable to them. Let us make an effort to discourage it. Let our prayer to our Sovereign be a moderate and a reasonable one and it will be graciously considered. But though I do thus far deeply deplore the course, pursued by the board, I will not attribute to them collectively or individually corrupt and unworthy motives. Their errors have been the result, the vice of the system itself.

Still less can I concur in regarding them as authors of all the evils attributed to them. I therefore cannot support the resolutions of the Hon. Member from the County of Halifax. The amendment is more acceptable to me although it is not without exception, since it prays, although in the alternative certainly for an elective council. But as I am persuaded His Majesty's Government will not accede to this part of the prayer I will give it my support.

If I may ask why I prefer a Legislative Council chosen by the Crown to one elected by the people I reply that one is English and the other American. The one monarchichal the other republican. I look with pleasure upon the progress of the United States in arts and science and all the elements of national prosperity, but I regard with a prouder satisfaction the immeasurable superiority of old England. Sir, I love the daughter much but I love the mother more. Imitate her institutions. Pause deeply to reflect ere you give your countenance to a proposition which may plunge into political strife and agitation this peaceable and happy colony and terminate in casting asunder from its kind parent its natural and powerful protector."

The effect however of his acceptance of a seat in the Legislative Council was to bring down upon his head the unmeasured abuse, and condemnation of all his opponents, and some of his quondam friends. His motives were assailed in the press, and even the Governor Sir Colin Campbell was attacked in violent terms for making the appointment. Yet to an impartial observer at this distance of time it is easy to see that Stewart's conduct was honourable, and consistent, and that the attacks on his motives were unwarranted. The recent changes in the constitution which had been granted by the Imperial Government were in his opinion all that was necessary for the good government of the Province, and went to the full length he had advocated when a member of the House. He had attacked the Old Council of Twelve which exercised both Legislative, and Executive powers, and carried on their deliberations with closed doors. These anomalies had been abrogated by the separation of the two bodies,

and by the doors of the Legislative Council being thrown open to the public. These were the reforms he had advocated, and when Howe determined to press further for reforms he declined to follow him. It is not a question whether in refusing to do so he took the best, and wisest course. That he was consistent is shown by a passage from Howe's speech on the resolutions in which he said "The honourable and learned gentleman from Cumberland, and other members of this Assembly, I am aware contemplate the separation of the legislative from the Executive Council, leaving the whole to be appointed by the Governor."

Having taken the stand he did no one could justly accuse him of inconsistency in accepting the position of a Legislative Councillor, and devoting his energies and abilities to working out what he believed to be the best settlement of the Provincial Constitution. That he was glad to escape the trouble and expense of the contest over the election petition there can be no reasonable doubt. His appointment to the Council was bitterly denounced by his adversaries in the Assembly and his critics outside. This doubtless is to be attributed to the hostility created by his action in speaking and voting against Howe's resolutions, and his escape from the trial of the election petition then pending against him. It is also not to be forgotten that amidst the turmoil of great political events which were then agitating the Province partizan feeling had reached its highest pitch and the pent up feelings of party animosity found vent in unsparing abuse of their opponents. As he rose from one position of honor to another and maintained his ground in the face of every effort to crush him these expressions grew stronger still, and he became a mark for continued hostile criticism to the end of his political life.

The reports of the debates in the Legislative Council show that he at once took an active, and leading part in its early formation, and in its deliberations. His long experiences in the lower house and in public affairs well qualified him for the work of organization in which the relative position of the new Council

in the Provincial Constitution had to be defined. Side by side with him was the Honorable James W. Johnston, afterwards so eminent in political life, and with whom Stewart was associated in the government until his appointment to the Bench. Mr. Robie was President, and several members of the old Council of Twelve whose proceedings he had so vigorously denounced in the past occupied seats in the Chamber. The House of Assembly as has been stated were so dissatisfied with the composition of the body contending that the Lieut.-Governor had failed to comply with the instructions of the Home Government, that they passed resolutions denouncing the action of the Governor, and appointed two delegates to carry their grievances before the Colonial Secretary. Messrs. Young and Huntington were named for this purpose to proceed to England to represent the feelings of the Assembly. The Legislative Council thereupon determined to appoint two members of their own body to meet those of the Assembly, and present their side of the case. Stewart and the late Judge Wilkins were selected, which indicates the high estimation in which he was even then held by many of his former opponents. While the selection was honorable, and gratifying to him, it excited the wrath of the Assembly, and led, as will presently be seen, to the most bitter and persistent attacks on his conduct and motives. All the delegates left for England in the summer of 1839, and in a series of interviews with the Colonial Secretary and the members of the Imperial Government the representations on both sides were heard. The result was not entirely satisfactory to the views of the Assembly although in the course of a few years owing to changes, and new appointments which were made, the composition of the Council was not further assailed. Stewart remained in England for some months after the other delegates returned. This so greatly excited the suspicions of the Assembly that he was remaining for the purpose of counteracting their wishes at the Colonial office that a Committee of the House was appointed to wait on his Excellency to ascertain whether Mr. Stewart was remaining in England under the instructions of the Executive Council. To which his

Excellency replied that he had given no instructions to the delegates of the Legislative Council, nor was he aware of the reasons for Mr. Stewart remaining in England.

While the dissatisfactions of the Assembly with the composition of the Legislative Council terminated, the constitution of the Executive continued for some years to be a source of great trouble, and bitter feeling between the Lieut.-Governor and the Assembly. It was contended that the Executive should be composed of members reflecting the views of the majority in the Assembly, in a word that the Council as it then stood were not responsible to the representatives of the people. Over this well worn controversy it is not necessary to go further than to record the part Stewart took in it. Stewart while in England was on the 28th March, 1840, appointed to be a member of the Executive Council. Such an appointment was in itself a mark of confidence in him, but it was viewed by a majority of the Assembly as a blow in the face. The Assembly were not slow in showing the temper in which they received the news. On the 24th March, 1840, this resolution moved by Howe was passed:

"Whereas, the Honorable Alexander Stewart has been appointed, or it is in contemplation to appoint him to the Executive Council;

Therefore resolved, that in order to guard his Majesty's Government against committing an error that must have a tendency still further to embarrass the Queen's Representative in the Colony, the House conceives it to be their duty to state distinctly that there are few men in Nova Scotia who enjoy so little of their confidence, and that they should regard his appointment as a direct insult to the House."

The violence of the language in this resolution shows that it was the result of partizan feeling—more especially when no reasons were then given, or ever afterwards except that he was a delegate opposing their wishes. Moreover, both Howe and Young and others who voted with the majority were in the course of a few

months occupying seats in the Executive Council alongside the man they had so strongly denounced in his absence. But Stewart was not the man to allow such an attack on his political character to pass unchallenged. He was not in the Province during the session of the Legislature at which this resolution was passed. He returned to Halifax in the Cunard Steamer "Unicorn" on the 1st June, 1840, after a passage of sixteen days. The first opportunity came to him in the session of 1841. A discussion took place in the Legislative Council with regard to the recent changes in the Council. This was his chance, and in his speech, as reported in the *Nova Scotian*, 1841, p. 58, he replied to the unjustifiable attacks of his assailants in terms of indignation, repelling their insinuations, and challenging them for proofs to which no one offered, or attempted to make an answer.

"He prefaced his remarks by urging the interest felt in the subject by the people of the Province. He was chiefly impelled to speak by personal consideration. With pain and pride he would have to speak of himself to throw himself on his country, and he did so in the presence of one who had caused a stigma on his (Mr. S) political character. He that day vindicated his character and threw down the gauntlet to all, chiefly to him who by the command of the Sovereign had been so recently elevated to that House. No change, he said, had been made in the constitution of the country and the principle of responsibility had not been conceded. He responded to the sentiments of the opener of the discussion respecting the tenure of seats in that house. These were nominally during pleasure really during life. He agreed also that if any member were removed from the seats of that body except for the specified causes, all, the President leading the van, should retire also. The house would be a mockery except it could take an independent view of acts submitted to its consideration. If any interfered with its free action, he (Mr. S) would adopt the motto 'Hereditary bondsmen know ye not who would be free themselves must strike the blow.' They should act as far as the vindication of themselves went by constitutional measures requiring no democratic institutions so beautiful in theory and bad in practice, but

British liberty in accordance with colonial dependence. They were sent by the Crown to that house but they had interests in the country equal to those sent elsewhere by the chances of an election. The house should be independent, if it ceased to be so better that it were abolished altogether. He referred to the many years he passed in the lower branch, he led in almost every measure of liberality that had been carried there, during the period he held a seat. That body represented the Commons of England as the upper branch did the Lords, in an humble degree. British subjects carried the spirit of liberty with them wherever they went, they should have British Government not in name only but in reality. Responsible Government in a colony was responsible nonsense, it was independence. If the Responsible Government aimed at elsewhere, supposing the debates were reported correctly, were granted by a Minister, he should deserve to lose his head. It would be a severing of the link which bound the Colony to the mother country. The recent changes infused a principle into the government, which conveyed by practical operation privileges not hitherto enjoyed by the people. It was not Responsible Government however. If the representative body after solemn debate were to present a vote of want of confidence it would be a matter of task and feeling with the members of the Executive Council whether they should resign or not, and for His Excellency to consider whether the state of the country required their dismissal. If not he would appeal to the people and enquire whether the advice of their representatives were such as he ought to follow."

He would next and for the first time claim the attention of the house for some personal explanations. He had to vindicate a public character of 16 years standing. No consideration could induce him to refrain from answering what had occurred and of throwing down defiance. That house and the late Governor honored him with a mission across the Atlantic and he thanked the gentleman who accompanied him for vindicating his character in his absence. It was sweet to read the language of a friend, to feel that one man at least spoke in defence of a person who was not

present to defend himself. While on that mission he endeavoured to perform his duty and received the thanks of the house on his return. He had good cause to feel keenly while in England when he read that which might have the effect of blasting his prospects not withstanding his long services at the bar and in the legislature. He would not have returned so early only that he felt it to be his duty to meet his accusers face to face. He but little regarded the effusions which for years the malice of concealed foes had placed in the public prints. He felt that he was perhaps saved from the assassin's dagger by animosity taking vent in that manner. But when he saw on the Journals of the Assembly, the resolution passed by a majority of 18 in a house of 29 out of 50 members, he considered it a duty to himself, to that body, to his country, and most of all to his children, to hasten home and ask those who passed it to state its foundation. Let them not withhold out of delicacy to him from pointing out the political crimes for which he had been thus visited. These had not yet been pronounced. Up to that day he had not heard what they were. He was glad of that opportunity to demand their enumeration. The appointment had been conferred upon him without solicitation by the direction of his Sovereign. The recommendation was given by Sir Colin Campbell without his (Mr. Stewart's) knowledge. The first intimation he had of it was by a letter from His Excellency. Although that officer had left Nova Scotia he would say of him that he had one virtue at all events that of magnanimity. For months before the appointment he scarcely entered the doors of Government House. He had complained to the Colonial Office respecting a measure which operated against a client and that caused an estrangement between His Excellency and him. That did not prevent His Excellency from seeing when the election scrutiny impended that he might be a victim, and he said, "I do not think you used me well in complaining of me to the Colonial Office but I think you are entitled to hold a place in the Councils of the country and it gives me pleasure to recommend you for that honor." This answer he now gave to those who said he had worn out the stones at Government House and that he was an adviser of His Excellency when the Councils were formed.

The only suggestions he made were respecting Mr. Morton for the Legislative Council and Mr. Huntington for the Executive. He accepted Lord John Russell's offer of a seat and he felt it his duty to take the the first opportunity of vindicating his character from charges occasioned by that appointment. Was this treatment to be one of the earliest advantages of responsibility, accusation in his absence, and condemnation without any specific charge? If so, all he had said of that system was too feeble to describe the misery it would produce. On Lord Sydenham's visit finding that a committee of the lower house had been appointed to communicate with his Lordship, he (Mr. Stewart) desired to meet them before His Excellency and if he was the political apostate represented, if he made his mission to England subservient to his own interest, if he was not a worthy son of the land of his birth, then let him be turned from office. If these were not proved let him be retained. His Lordship was pleased to say that investigation was not necessary. The request was repeated and he could not forget the delicate attention paid by His Lordship. He said that he had enquired of all parties, that the investigation was not necessary, and that he would give a proof that the confidence of the government was continued by reappointing him to the executive and continuing him in the Legislative Council. He did not go into these details for the purpose of interrupting harmony but because nothing was so dear to him as character. What had he done to cause that mark of censure? Was it his conduct on the quit rents? Distinguished members of the other house voted with him on that subject, and of the minority of 10 but 2 were returned in a subsequent election. That could not be the cause. He had been exculpated up to 1837, and what did he then do that a record against him should go down to posterity. He supported nearly every liberal measure which was introduced into the house while he sat there. He was the originator of the free trade measure. It could not be that. Nor the Catholic Oath bill, nor the provision to prevent Protestants from taking the oath, nor the Marriage license measure. But it would be in vain to enumerate. Up to the period of his leaving the House of Assembly he was considered.

fit for a seat in both councils. How had he acted as an independent member of that house? He assented to nearly every measure sent from the other branch. On the Quadrennial Bill, he exercised an opinion feeling that whatever changes were made, some stability should be given to public institutions, and while he sat in that house he would act independently. On the Civil List Bill he saw that it was not consistent with the policy of the government, and that permanent salaries for certain officers should be provided. That had been confirmed from Home and acceded to by many of the Assembly. If he had offended on that he offended in company with the Hon. gentleman, the Solicitor General who sat beside him. But he also was one of the proscribed because he and others had not accorded with the vote of censure they were pronounced unworthy the confidence of a party in the Assembly. They did themselves honor by not giving that Act their approval. How could the Governor have dismissed his Council at that time without disgracing himself and tarnishing his fame. That could not be the ground of an attack on him (Mr. S.). What was it then? He recollected one point which might perhaps furnish an answer. In the report of the delegates of the Assembly written with the peculiar felicity of the author it was said that he (Mr. S.) while representing that house in England stated that Nova Scotians were such abject slaves though they were trampled under foot they would not rebel. A saying was that if a worm were trampled on it would turn. It was true that in a discussion one of the delegates stated a case hypothetically in which people might have no recourse but rebellion. He (Mr. Stewart) saw that this caused a misapprehension, that an impression not intended was conveyed, and he said that the people had no feelings but those of loyalty, and that no intention respecting rebellion existed. Why did not the assembled delegates at that moment say that he did not represent Nova Scotia. That was not done. He was proud to know that the people were affectionately, disinterestedly and even romantically attached to the Sovereign, that they felt devotedly attached to the land of their fathers and that they had no wish to be separated from it, and dreaded to be swallowed by the neighboring republic, that they loved British liberty, not licentiousness."

"He did not speak to revive angry passions. He was willing to meet that gentleman and go hand in hand with him for the advancement of the public interests. He had met another leader the most distinguished in the house (Referring to Joseph Howe) He, (Mr. Stewart) was one of the first in the former house to foresee that gentleman's acquisition to power and place, to see the genius emerging which had burst forth since. He recognized his ability and was glad to see his talents employed in the service of his country. He would always find him (Mr. S.) ready to go with him while he proved anxious for the good of his native country. Willing to support him, in supporting the dignity of the crown and the interests of the people of Nova Scotia. When he (Mr. S.) did that he only did his duty to the representative of the Crown, to himself and to that house."

When Stewart was appointed a member of the Executive Council Responsible Government as we now enjoy it had not been completely obtained, or more correctly speaking was not fully understood. That appointment was bestowed upon him on the recommendation of Sir Colin Campbell, then Lieutenant Governor, and as has already been pointed out caused great indignation among his foes in the House of Assembly. On Sir Colin's recall Lord Falkland succeeded to his place in September, 1840. One of the first acts of the new Lieut. Governor was to call for the resignation of some of those who had been members of the Old Council, such as Jeffrey, Collins, Cogswell and Tobin; and to appoint in their places Mr. Howe, and Mr. McNab. The Executive as then constituted was composed of the following persons: Hon. S. B. Robie, Sir R. D. George, James W. Johnston, Edward W. Dodd, T. A. S. DeWolfe, Alexander Stewart, James B. Uniacke, S. G. W. Archibald, James McNab, and Joseph Howe. Archibald, who was also Attorney General, shortly afterwards, on the 29th April, 1841, was appointed Master of the Rolls vacated by the death of Mr. Fairbanks. The Government as will readily be understood from the names of those comprising it held different views on many subjects. It appears from a discussion that took place in the House of Assembly Feb. 18th, 1841, that Howe had been consulted

in 1837 by Sir Colin in reference to the composition of the Council under the changed conditions. Howe in explanation says "Of members of this House, the persons recommended for seats in the Executive Council were the Attorney General (Mr. Archibald), Mr. Stewart, and Mr. Huntington. Mr. Goudge enquired was he to understand that Mr. Stewart was one of those recommended. Mr. Howe. Yes, in 1837. At that time he was a very young member of the Assembly, and Mr. Stewart up to that period had taken about as broad liberal views as most gentlemen in the House, not decidedly belonging to the liberal party."

In these words forced from Howe is to be found the most complete refutation of the resolutions he had assisted in passing in the Assembly reflecting on Stewart. That it was a piece of political spite prompted by unworthy motives does not admit of any doubt. The same remark applies to Young who took his seat at the same Council board 13th January, 1842. Stewart, Johnston, and other members who sided with them held very different views to those of Howe, Young and MacNab in regard to the position of the Executive in the constitution of the Province. The latter of course contended for Responsible Government pure and simple—that is to say that the Executive should be composed of persons only who had the support of the House of Assembly. Stewart on the other hand expressed in one of his speeches the opinion of himself and friends in the following language—"In Canada as in this country the true principle of Colonial Government is that the Governor is responsible for the acts of his government to his Sovereign, and the Executive Council are responsible to the Governor. He asks their advice when he wishes it. He adopts it at his pleasure, and it is the duty of those who disapprove of his acts to retire from the board."

This, however, was not the popular view, nor the one which ultimately prevailed, but it thoroughly explains Stewart's attitude at the time, and while he held a seat in the Government.

Lord Falkland's government was distinctly designed to be a non-party one, and it was on that understanding that Howe, MacNab, and James B. Uniacke joined it as representing the liberals in the Legislature, while Johnston, Stewart, and others represented the Conservatives. With such elements harmony could not long reign. It was broken by the appointment of the Hon., Mather Byles Almon to be a Member of the Executive. This took place on the 21st Dec., 1843, and immediately Howe, Uniacke and MacNab sent in their resignations which were accepted. From this time commenced the war in earnest between the two parties into which unhappily Lord Falkland was dragged. To enter into the particulars of that unseemly dispute is unnecessary. Nothing but the extreme violence of party feeling then raging will account for it, while nothing can justify the conduct of the principal actors. This may be urged somewhat in extenuation that it occurred at a time of great political upheaval when passions were roused by the importance of the vital questions involved, and much was said and done of which in calmer moments those who were guilty would be ashamed.

As one specimen of the scurrility indulged in toward Lord Falkland the following from the Nova Scotian, Sept. 9th, 1844, is given:

"But what need the Governor care for the hounds. Has he not his own miscellaneous pack to defend him? Are there not the Sydney Pug (referring to Judge Dodd) the Annapolis Terrier (referring to Mr. Johnston), Snarlyow from Cumberland (meaning Stewart) and his little dog Tray of the "Morning Post."

"Mongrel, Puppy, whelp and hound

"and curs of low degree"

"and the Lieutenant Governor."

But as might be expected from what has been already stated the vials of their wrath were chiefly emptied upon Stewart. Johnston was the leader of the Government as well as Attorney

General. Stewart was his chief lieutenant, and led in the Upper House. The opposition press teemed with daily abuse of his character and conduct.

The following, extracted from the *Nova Scotian* of July 4th, 1845, conveys some notion of the mode in which he was attacked under the heading of "Deserters."

"Hon. Alex. Stewart gave early indications of the genius for which he is now universally distinguished. Manifested great astuteness as a merchant, accountant, and financier. Deserted the interests of Commerce and the bustle of the City for the study of the law, and the privacy of the country. Came out a violent advocate of ultra-liberal principles, country interests, and homespun breeches, and was elected for Cumberland. Fired by his country's wrongs and overflowing with indignant zeal at the dictation of the Colonial office, the voluntary delegate to the Colonial Minister went home a patriot, and came back a courtier. Sandy having deserted his principles the people of Cumberland shook him off, whereat he deserted the country for the city, and eschewed homespun breeches. He was appointed Legislative, and Executive Councillor by Sir Colin Campbell, and served in three administrations in four years. Having become tired of deserting former associates, and principles, Sandy is said to have made up his mind never to abandon any administration until fully satisfied of its inability, or indisposition to reward deserving men, or desert any Governor until perfectly satisfied that his ruin has been fully accomplished."

The obloquy cast upon him by his political enemies does not appear to have had any influence on his public conduct. From the time he took his seat in the first session of the Legislative Council until his promotion to the Bench he devoted his mind with his usual energy to all public matters and questions, speaking very frequently, and generally directing the course of legislation in the Legislative chamber. It can readily be seen on consulting the records of that body that his opinions carried great weight, and that he easily held a first place.

Any attempt to describe in detail the various measures with which he was called upon to deal would be to write the legislative history of the Province during that period. His general views and conduct on all the great public questions are sufficiently told in what has preceded. As a member of the government in company especially with Mr. Johnston he was continually and roundly denounced as not there by the will of the people, but by the favor of the Lieutenant-Governor, and yet during all the time he sat in the Executive a majority in the Assembly supported the Government.

Having served twelve years in the House of Assembly, and eight years in the Legislative Council, during six years of which latter period he was also a member of the Executive, an opportunity came when he might fairly claim to reap the fruit of his twenty years labour in the service of his country. As a lawyer of first eminence his right and claim to succeed to the vacant Mastership of the Rolls could not be gainsaid. Accordingly when offered, he accepted the position, and thus closed his somewhat stormy political career. However fiercely he may have been condemned and denounced by his enemies and opponents for the independent course he pursued in political affairs, no stain rested on his name in connection with any public matter. He was strong in his convictions, and courageous in action, and left behind him a record to which his descendants may look with just pride.

Before turning to his judicial career it will be interesting to refer to some episodes in his life which occurred while he was in the Legislature. During his visits to England his prominence enabled him to meet many distinguished persons, with some of whom he formed strong and lasting friendships. Among others were Lord Brougham, Lord John Russell, Lord Nugent, Daniel O'Connell, Sir L. Bulwer Lytton, Mr. Labouchere, and Dr. Lushington. In England he also formed the acquaintance of the celebrated American statesman Daniel Webster. He also enjoyed the friendship of three other well known Americans,

Judge Story, Chancellor Kent and Edward Everett. His correspondence with all these eminent men is the best proof of the high estimation in which they held him.

It was on the occasion of his visit in 1839 and 1840 that he was with Daniel Webster the guest of the Lord Mayor of London at dinner at the Mansion House. Howe, in the Nova Scotian to which allusion has been made before, publishes a full account of this function with Stewart's speech, accompanied by some very humorous comments.

"On the right of the Lord Mayor sat the Honorable Daniel Webster a member of the Senate of the United States, and on the left of his Lordship sat Alexander Stewart, Esq., a member of the House of Legislature of Nova Scotia. The Lord Mayor said in proposing the health of the Hon. Alexander Stewart, that he had great pleasure in introducing to his guests another gentleman who had visited their shores for the purpose of making himself acquainted with the customs, manners, and improvements in this great country. Mr. Stewart was a member of the Legislative Assembly of Nova Scotia—a colony in whose welfare England felt no small degree of interest. He had met with a warm reception and he (the Lord Mayor) should feel great pleasure in introducing his distinguished guest to whatever was worthy of observation within his jurisdiction."

Then Mr. Howe makes this generous comment: "We come now to the worthy delegate's speech, and here we must give the 'devil his due,' and acknowledge that it reads quite as well in print as any of the others. Stewart though not as great an orator as Daniel Webster is not a bad speaker, and from what he saw, and heard after dinner at home we should incline to the belief that Sandy did the Province no discredit so far as fluency went, and rather favourably impressed the citizens as to the general character of Blue nose oratory—we give the speech in full.

Mr. Stewart said: "In rising as I do with extreme pleasure at the call of your Lordship, I cannot help giving expression

to the sentiments which fill my mind drawn forth as they are by a remark from your Lordship. Yes, my Lord, I fully feel with my friend Mr. Webster that the American settlers as well as the trans-Atlantic Colonists are not foreigners, but we own your fathers for our fathers, your blood running in our veins, and your principles emulating our examples, your success gladdening our hearts, your failures calling forth our sorrow (Cheers). I felt with throbbing emotion as the gentleman was singing "Hearts of oak are our ships," that when the wooden walls of your Navy shall again be manned for the preservation of peace, and your army again organized to the same end, your fellow subjects on the other side of the water will be found to possess hearts, and hands to assist you in your gallant enterprise (Applause). My Lord, you have alluded to the fact that we are a country without debt or taxes. We have to thank you for that. In common with all our other privileges it is your ships which protect our trade, it is your soldiers that defend our shores. To you we are indebted for innumerable benefits. While we feel ourselves to be a link in the great chain, you it is who with a commanding power connect the past with the present, and the future. I felt the full force of this today, when I witnessed for the first time the old Saxon custom and as the grace cup pressed my lips and as I received it from the fair lady who sits beside me I thought of the words of the poet,

"If there were but a kiss left in the cup

"I cared not for the wine" (Cheers).

Before I sit down I beg leave to follow out the wishes of my friend Mr. Webster, and take up the sentiment which he so properly waived on the present occasion; and give "Prosperity to the City of London, and the trade thereof," nor need I ask the present company to drink it with enthusiastic feelings."

Howe remarks on this, "But the concluding crowning passage—the barefaced attempt to steal a kiss from the Lady Mayor—ess out of the grace cup was indeed the 'coo' (coup) de grace—

In that, at all events he indicates the gallantry of the Blue noses, and must have made even the Lord Mayor look blue."

His views on Confederation of the Provinces may here be noticed. He was an avowed opponent of Union. So long ago as the 22nd March, 1839, in the Legislative Council when the question was first mooted in consequence of Lord Durham's report, he made a strong speech against the movement. When the agitation was revived in 1864, led by Sir Charles Tupper, he expressed himself in the strongest terms against its accomplishment. To his mind Nova Scotia was happy, prosperous, and contented under the aegis of the British Crown and he thought any connection with the Canadas would be injurious to our interests. The Union was not brought about in his lifetime. It must be conceded that in this opinion he was mistaken. He was then an old man long retired from public life, and from the forces which were affecting the political status of the country. It is therefore not much to be wondered at that he regarded with suspicion and dread any movement which would so revolutionize our Provincial institutions.

In a letter written about the period negotiations were in progress for union he says, "We are living at an important epoch in North American history and the Convention now sitting at Quebec have vast issues before them. You will probably live to see the consequence of the Union of these Colonies if it occur. I predict that children yet unborn will rue the day if it does. Desperate but fruitless and vain will be the struggles of these maritime colonies to break the chains which will thereby bind them to their gigantic neighbour Canada, 'Like the starling their way will be I can't get out'. A Commercial Union something akin to the zolverein is all that is required, for our best union will for long be the union which now exists between us and our glorious fatherland. However, with the future of this world I have little to do."

Again in a letter a little more than a month before his death on Nov. 8th, 1864, he writes, "We are at the beginning of an era

of taxation which ere long will astonish the statesmen as they call themselves who are throwing Nova Scotia happy, prospering and contented as she now is into the great big swamp of Canada. But it is not this which appals me, it is the cutting the tow rope which binds us to old England. He must be a poor statesman who cannot see that this must be the almost immediate result of the setting us up a nation. Archibald says in his speech at Montreal that it was natural; that Great Britain should expect that so soon as we are able to do so we should take measures to defend ourselves, and so we should. But he also transmuted this act into independence as a necessary consequence. No recognized authority in England ever said that she had a desire that we should set up as a nation, and it will be news to me when she assents to the new nation having the entire control of everything therein. It is in my poor opinion of the last degree impudent in the convention not making the plan and its details public. It argues forgone chicanery.

"These men

"Dressed in a little brief authority

"Cut such fantastic tricks

"Before high heaven as makes the Angels weep."

My great objection to the whole plan is its prematurity.

What trash is one foot on the Atlantic and the other on the Pacific. How many ironclads and how many battalions could our new nation contribute to the protection of our fisheries or of our harbour. Truly Canada seemeth to be most generous. She will give us back so much per head of our revenue, and to think of taking such a step without a general election is unalloyed despotism. Mais n'importe. I shall, I hope, be in the "mools" long before this statesmanlike measure is perpetrated. I hope for I should wish to die as I have lived a unit, though a humble one, of that great nation the beat of whose morning drum travels with the sun until he reappears next day in the eastern horizon.

He was much in advance of his time on some subjects such as legal reform, education, and religious equality. He declared in one of his speeches in the House of Assembly that imprisonment for debt should be abolished as barbarous. He constantly denounced the granting of any preference, or privileges to one religious body over others, and some of his ablest speeches were made on measures for the improvement of education in the Province. He gloried in our British connection, and strove with all his might to make the bond stronger. This sentiment became more fixed through his repugnance to American institutions.

The announcement of Stewart's appointment as Master of the Rolls was received with unqualified satisfaction by his numerous friends, and by those who appreciated his sterling abilities, and legal standing. All that his enemies could say was uttered in the prevailing hostile tone which they had used against him for years. The best that Howe, in a paragraph in the *Nova Scotian* referring to the appointment, could say, was "The Liberals have nothing to do with the existing perplexities and arrangements except to laugh at them. Had the coalition continued to this hour Johnston or Stewart would have been Master of the Rolls". One thing of especial significance may be noticed that notwithstanding all the vile abuse and calumny that had been for years heaped upon him not one word was uttered against his fitness for the position, or his integrity as a man. He was in England in 1846 when his appointment was gazetted, and shortly after his return in June he visited his old constituency in Cumberland where he received from the Bar, and the leading residents of the County, an address of hearty congratulation on his accession to the Bench.

He no doubt set great value on this address from his old constituents, as it was found carefully preserved among his papers, and for that reason, and also to give a place in this record to the name of some of his old friends in the county it is here transcribed in full:

"To the Honorable Alexander Stewart, recently member of the House of Assembly for this County, and member of the Executive and Legislative Councils.

"We, the High Sheriff, Custos Rotulorum, Members of the Provincial Legislature, Magistrates and Members of the Bar of Cumberland, avail ourselves of your present visit to this County whose interests you have so long, so faithfully, and so ably advocated, to tender our sincere, and respectful congratulations upon Her Majesty's selection of you to fill the High Office of Master of the Rolls of the Court of Chancery, and Judge of the Court of Vice Admiralty in the Province. By undeviating loyalty, and the conscientious and efficient vindication of the right and liberties of the people you, Sir, have well entitled yourself to these distinguished marks of the favor of the Crown, and we view this gracious act of the Queen as a proof that an individual who acting under the influence of these qualities, resolutely preforms his duty as you have done, may attain the highest offices in the bestowal of Her Sovereign, while he assures for himself the reward and esteem of his fellow subjects.

This Province will hereafter be deprived of your services as a member of the government, and of the Legislature, but it will be more than compensated by the learning and ability by which you will be enabled in a higher station to be serviceable to your native County. Wishing yourself and Mrs. Stewart all happiness, we have the honor to be, etc, with great respect."

This address is signed by Joshua Chandler, High Sheriff, D. MacFarlane, Custos of the County, R. McG. Dickey, M. P. P., Stephen Fulton, M. P. P., M. Gordon, J. P., John Hood, J. P., Amos Black, J. P., John Morley, J. P., D. Teed, J. P., Elisha B. Cutten, J. P., J. W. Delaney, J. P., W. W. Bent, J. P., W. Henry Buterfield, J. P., Isaac Bliss, J. P., Gilbert Purdy, Register of Deeds, James MacNab, J. P., Jacob G. Purdy, J. P., Ashar Black, J. P., John Morse, J. P., Nath. Angus, J. P., Josh. Oxley, J. P., Findlay Weatherbe, J. P., and a large number of others too numerous to mention.

JUDICIAL CAREER.

The office of the Master of the Rolls became vacant by the death of the Honorable S. G. W. Archibald in 1846. There were several eminent members of the Bar well qualified and anxious for the vacant judgeship, and among others the Honorable James W. Johnston, who was at that time head of the Government. However strong were his claims the circumstances in which he was then placed as the leading member of the administration compelled him to waive them. Stewart was also a member of the Executive Council but Johnstone from what motive it is needless now to enquire did not favor his appointment. His long services to the country and his high standing as a lawyer were however well understood and appreciated by the Imperial Government, by whom such appointments were at that time conferred.

Lord Falkland, in a letter addressed to him April 28th. 1845, offering a silk gown has placed on record his opinion of him as a lawyer and statesman. He says: "I have as you are aware received through Lord Stanley Her Majesty's permission to promote to the rank of Queen's Counsel such gentlemen of the Bar of Nova Scotia as I may deem entitled to the honor. Your high standing as a lawyer and the eminent services you have rendered to the Government in the Executive as well as in the Legislative Council not only makes it impossible for me to overlook your claims to professional advancement on an occasion like the present but cause the duty of offering the distinction to your acceptance to be as gratifying to myself personally as it is imperative. Should you feel disposed to avail yourself of the offer I now make your name will appear at the head of the list of Queens Counsel for the Province.

I am, dear Sir,
Yours very faithfully,
FALKLAND."

Lord Falkland was Lieutenant Governor, and on his recommendation Stewart was elevated to the position of Master of the Rolls. As gathered from his letters, he had formed a very high

estimate of Stewart's abilities, and despite the jealousy, if not the opposition, of some of his colleagues in the Council the Home Government sent a mandamus to the Lieutenant Governor for his appointment. On the 20th May, 1846, his Commission as Master of the Rolls was issued, and he was sworn into office on the 2nd day of June, 1846.

The Court of Chancery at that period was not regarded with much favor in the Province generally. The great expense and the tedious delays attendant on its proceedings as then conducted were a constant source of complaint, and had brought the Court into disrepute. The illness of Mr. Archibald for some time prior to his death and consequent hampering of the business had increased the unpopularity of the Court. This was not all. The procedure itself was antiquated, following as it did the old forms of the English and Irish Courts of Chancery, which involved heavy costs utterly disproportionate to the matters involved, and unadapted to the conditions of the Province. These complaints had reached the Legislature, and in the preceding twenty five years attempts had been made to deal with, and rectify these abuses, but only with partial success.

Stewart, who had been one of the foremost Champions of legal reform, was familiar with the evils in Chancery procedure. Within a very short time after his appointment he set to work to remedy these defects so far as it was within the power of the Judge to do so. Under an Act of the Legislature passed some 12 or 14 years before the Master of the Rolls was empowered to make new rules, and regulations to simplify the proceedings, and lessen the cost. Hitherto very little had come of this Act. Neither Mr. Fairbanks, nor Mr. Archibald had, so far as can be gathered from the Chancery Records, taken the matter in hand. Stewart who was a younger man, and in the full strength of his intellectual powers, tackled the subject. He drew up, and published a new set of rules sweeping aside so far as possible the old forms, introducing simpler ones, and reducing the expenses. He did not stop after promulgating his first remedial measures,

but as will be found on consulting the Chancery Books continued to lop off the old and useless forms and orders, as from time to time they come under his notice. He was following up this reformation until the time of the abolition of the Court in 1855. It is a striking tribute to his ability, and foresight that many of the changes introduced by him are to be found in the Judicature Act, and Orders of the present day.

The success which attended his efforts in reforming the machinery of the Court of Chancery quickly appeared in the improved despatch of business. The energy and capacity of the Judge put an end to the delays, and abuses which had characterised Chancery litigation in the past, but with the heavy fees and costs he was unable to deal satisfactorily because these were fixed by laws which he had no power to alter.

The proof of the correctness of the above statements is to be found in the records of the Court of Chancery still preserved, but more especially in the Provincial archives, and the Journals of the House of Assembly. When the agitation for the abolition of the Court was started, and measures were taken for that purpose by the appointment of a Commission to report on the whole subject, Stewart was naturally called upon to defend the existence of the Court. In an able letter after exhaustingly dealing with the matter, he challenged those who were attacking the Court of Chancery to advance any proof of their statements, and points to the unanswerable fact that not one cause ripe for hearing remained undisposed of. Two of the most learned, and impartial Commissioners, the then Chief Justice Sir Brenton Halliburton and Mr. Justice Bliss, completely upheld the position he took in their valuable report.

As reference will be made to the period of the abolition of the Court later on, it is more convenient to trace just now his judicial career. Stewart was more fortunate than his three predecessors in having some of his decisions reported, but it is much to be regretted they are few in number. There was no reporter in those days, and it was not until near the end of his

career on the bench that the late Mr. Justice James began to edit decisions of the Supreme Court in which he included one or two of the Master of the Rolls. While to some extent these enable an opinion to be formed of his judicial career, and knowledge, their scope is of too limited character to give a full view of his capacity and mastery of equitable jurisprudence. In nothing was he more conspicuous than his love, and grasp of principles—the great foundation principles of Equity, as well as of the Common Law. Case law had no charms for him. Always of course yielding to the authority of decided cases, yet it was no slavish following of what had been said before. His disposition was to go to the root of things, and in his efforts to probe to the bottom he left no stone unturned. If he was satisfied that the practice, or precedent in the English Court were not applicable or objectionable to the conditions prevailing in the Province he did not hesitate to disregard them, and gave his reasons for doing so. As already stated the illustrations of his decisions which have come down to us are very few indeed, and we are largely dependent on the reputation he acquired while on the Bench. In the celebrated case of *Uniacke vs. Dickson*, James Rep. 287, decided after he became Master of the Rolls, he could take no part as Judge, having been counsel for the complainant while at the Bar. The decision, however, was in favor of his client Mr. Uniacke, and according to the opinion he had given. *Collins vs. Story*, James Rep. 141, in which he decided that a widow was entitled to dower in her husband's equity of redemption where she had executed a mortgage made by him merely for the purpose of security, is a good specimen of his industry and research, as well as his independence of judgment. He says, "A married woman's rights, and interests are under the special protection of the court. Dower is said to be favored even at law, but surely then to deal with a mortgage such as I have suggested would not be to protect, but to defraud a woman. There may be some show of reason in this court not relieving a widow when the husband was never seized of an estate at all during the coverture as was the case in *Dixon vs. Laville*. There was nothing on which the Court could fasten to exercise its peculiar jurisdiction.

She never was entitled at law to dower. *Equitas sequitur jus*. She had executed no conveyance, consequently there was none for the Court to examine, and the long established rule of the Court was that a woman could not be endowed of trust estates or of an equity of redemption, which was held to be analogous to a trust estate. In the case I have suggested, there is no rule of equity by which the Court is restrained from enquiring into the interests of the parties to the mortgage. At law indeed the husband had conveyed in fee simple to the Mortgagee \$10,000 worth of real estate for the consideration of £100. At law upon the non-payment of this sum agreeably to the condition in the mortgage, the mortgagee became absolute owner in fee, but here he is held to the real transaction, compelled to accept repayment of his loan, and reconvey the title to the mortgagor, then wherefore not extend similar justice to his wife, who also only understood herself to be pledging her right of dower to secure such repayments. Our Provincial law says, "when a sale shall be made of lands and tenements by husband, and wife, &c."—A sale was not contemplated if one merely refers to the words of the law in the case I am putting, and it would be unjust to extend it beyond in the intention of the parties."

Caldwell vs. Kinsman—James Reports 398, is another decision not in itself of much interest, but in which he again shows the soundness of his learning, and his independent character in dealing with matters coming before him. "I refuse then," he says, "to adopt this English rule because it is inconsistent with the "peculiar mode of taking testimony on the broad principle that "rules of evidence and practice must vary with the varying "exigencies of the subject to which they are to be applied and "cessante ratione, cessat lex." The whole judgment in this case is an able discussion of the evidence before him, and the law on the subject, and is perhaps one of the best specimens which remains of his judicial utterances.

Wooden vs. Bushen, James Reports, 429, the only other reported decision in the Court of Chancery simply deals with a point of practice.

Tobin vs. Tobin was another cause of considerable importance of which a printed report remains, and which in vigorous language decides a difficult question of procedure. In nearly all of these cases such eminent lawyers as James W. Johnston, Wm. Young, John W. Ritchie, Jas. R. Smith and James Stewart represented the litigants.

In the Tobin case is a passage which illustrates the fund of humour so characteristic of the man. "The defendant," he says, "then came armed, and prepared with their objections, and the complainants were laid by the heels by it. Surprises of this kind always belonged more to common law than to equity. The Court of Chancery has ever discouraged the gladiatorial feeling which was once the pride of *Nisi Prius*. But things have changed in all Courts. John Doe, and Richard Roe are irreverently regarded as Myths. In *fictione juris consistat equitas* is itself a fiction. Figures of speech are now met with figures of arithmetic, and tropes, and metaphors with the latest statistics. Those of our Bar whom Her Majesty delighteth to honor have set Lord Coke's authority at naught. They have not trodden in the footsteps of their predecessors. Coke doth plainly show *tempere jacobii primi* that it doth much import the King's sovereignty, and the common weal, that his Counsel learned in the law dance once in every year, whereupon at Whitsuntide they did dance solemnly, and lovingly together before the bench, the King's Attorney first stepping forth to the great contentment, and admiration of the outer bar and other of the King's lieges.

Fuimus Troas - - - -

Ilium fuit - - -

Danai dominantur urbe.'

It is much to be regretted that there are no other of his Chancery decisions extant, for it is well known that all he did, was done well and no doubt in the large number of questions which arose in cases before him many important principles were determined. Those to which reference has above been made however

help us to form some notion, although an inadequate one of the extent of his learning, and his capacity as an Equity Judge.

Further evidence of his ability, and industry is to be found in a number of his reported decisions as Judge of the Court of Vice Admiralty. He was appointed Judge of this Court by the Imperial Government at the same time he became Master of the Rolls, and filled that office with great credit and distinction until his death. The business of the Court of Vice Admiralty during his occupancy of the office appears to have been large. Considerable correspondence took place between himself and the Home authorities on the subject of salary. Stewart complained, and it seems with justice, that the then mode of remuneration by fees was inadequate and unsatisfactory, and demanded a fixed salary. After the question was investigated, Mr. Gladstone, then Colonial Secretary, replied that it could not be done in view of the many other Courts of Vice Admiralty in different parts of the Empire who would be entitled to the same.

It is not proposed to refer with particularity to any of the cases in Admiralty which he adjudicated, except to one which was an international question, and involved serious issues between England, and the United States. I refer to the "Chesapeake" case now almost forgotten, but at the time of very great importance. During the civil war a party of men claiming to have a Commission under the Confederate Government took passage on the Steamer Chesapeake, an American vessel then on a voyage from New York to Portland. At night when at sea they took possession of the ship shooting down the Captain and putting the crew in irons. The steamer was brought first to Shelburne, Nova Scotia, and was subsequently captured outside Halifax Harbour, but within British waters by an American vessel of war. She was then brought into Halifax and handed over to the British authorities here. The captain had previously escaped, had been arrested at the instance of the United States Consul at St. John, N. B., and under a writ of Habeas Corpus discharged from custody. The steamer was libelled

in the Vice Admiralty Court at Halifax, and the matter came up before Stewart as Judge. The excitement prevailing over the whole affair both in the United States, Canada and England was very great. The questions involved were new, and great difference of opinion existed among Members of the Bar as well as the Executive as to the proper disposition to be made of her. Southern sympathy ran high in Halifax, so much so that a number of influential persons actually interfered with the officers of justice to enable some of the parties connected with the Captain to escape arrest. Indeed, one gentleman of high position deliberately insulted Stewart in the Halifax Club for the decision he gave. The whole question was argued before him on several occasions. Such able lawyers as Mr. Johnston, Judge Advocate General for the Crown, John W. Ritchie in the interest of the Confederate States, and Mr. Sharnon with Mr. Morse his partner for the vessel, and cargo owners. The decision, or rather series of decisions are reported in *I Oldright*, 797. Some idea may be gathered of the intense feeling aroused and difficulties surrounding the Judge in this important case from his remarks in granting writs of restitution on Feby 10th, 1864. He says, "What I have said, and done in this cause has been greatly misunderstood, and misrepresented, and it is of much importance that this should as far as possible be prevented from again occurring. I have therefore thought it well to reduce to writing what I have to say in decreeing these writs as prayed." Then after some further remarks he proceeds to say, "This Court (though it administers its functions in Halifax) is an Imperial tribunal acting by authority of the Acts of the Imperial Parliament, and guided by international and maritime as well as municipal law, and from its decrees an appeal lies to the highest appellate tribunal but one in the Empire. If therefore these captors have the rights which it has been suggested at the bar belong to them, the Confederate Government, and its agents can have no difficulty in effectively vindicating them. The announcement of these views was received with but scant deference. They, especially the intimation that the Chesapeake with her cargo should be forthwith restored to their owners, were promptly denounced as inconsistent with

that common sense, the application of which it was said, to legal problems, was all that was required for their solution. This reception of them troubled me but little, as I felt that no personal disrespect could be intended, but the conduct of a portion of the press in these Colonies has given me great concern. Free, and fearless criticism of the proceedings of Courts of Justice such, and such only as one sees in the great leading organs of public opinion in England, is an essential corrective to their proceedings. But the circumstances of this case, it is well known have excited the most angry feelings throughout the United States, and the epithets and strictures, and the unworthy motives and conduct imputed to this Court, and to myself as Judge of it are as unpatriotic as they are un-English for they have no other tendency than to exasperate these feelings and justify alike the Confederates and the Federals in treating with contempt any decree which it may pronounce.'

The truth and justice of these remarks will be apparent to any one taking the trouble to consult the newspaper press of the day, both in Canada and the United States, but Judge Stewart was not of a temperament to allow himself to be attacked without hitting back. As one instance of the undeserved slanders which found vent in the press I give the following extract from the Weekly Telegraph published at St. John, N. B., Feby. 18th, 1864.

NO "PLEASING EVERYBODY."—Judge Stewart of the "Admiralty Court at Halifax has been subjected to some strictures from the Provincial Press for the course he has pursued in the Chesapeake case. Some have been disposed to charge him with deferring too much to Federal opinion. If the Judge has really endeavoured to keep the peace with our neighbors by attempting to conciliate them he has evidently failed; for the Hartford Post, the Administration organ in Connecticut, comments upon his decision in this wise: The Judge of the Admiralty Court has decided to restore the vessel and cargo to her owners, subject to such conditions respecting the payment of the expenses as the attorney general may exact. The latter

demands surety against latent claims. This is a very good "thing in the way of justice. A man comes up to you on the street, knocks you down, carries off your wallet and is arrested and taken to court. It would naturally be supposed that when the case came into court, the thief would be tried for the robbery; "but the neutral Bulls have other views. They try the case to see "whether the money which the thief has stolen from you, shall be "returned to the thief or restored to the owner, with the hope "and expectations of finding some excuse for giving it to the "thief. Such is justice with the neutral Bullies."

The insinuation in the St. John paper that he was trying to please everybody, and the charge in the American paper that his decision was an outrage are best answered by the terms of his judgment. He says, "I have been much embarrassed in dealing with this case. To grant this application (the restitution of the vessel and cargo to the owners) will be entirely within the rules applicable to it, for on the facts sworn to, the taking was undoubtedly a piratical taking. But in its origin, in its position before the Court, in the mode of the reception in short in all the concomitant circumstances the case is very peculiar. I was therefore in the absence of decided cases, obliged to recur to, and rely on for my guidance those principles which lie on the basis of all law and I do not think I shall be acting unbecomingly in referring for a few moments to those principles." Then after luminously discussing the rights of independent States he proceeds. "Then if one of the Queen's subjects had violated the municipal law as flagrantly as the captors of the Chesapeake have outraged the international law, and such violation would have (as it unquestionably would) subject the offending vessel to forfeiture, shall those who have violated the higher law be subjected to a less penalty. Assuredly not. Then as to the disposal of the forfeited vessel. It were derogatory to the Royal dignity to add the proceeds of property which had belonged to the citizens of a friendly nation to the privy purse of the Queen, and it would as little become the honor of the British nation to make profit out of their misfortunes. What

more appropriate mode of dealing with this vessel, and cargo than to restore them to their original owners, not as a favor to them, but as an act of justice to the offended dignity of the Crown, not as recognizing any right of the Government of the United States to require such restoration, but as a fit punishment of the offenders, and a warning to others? The law which the Queen, and the Parliament have prescribed to enforce the observance of her neutrality is to be found in Her Majesty's proclamation, and in the Statutes under the authority of which it was issued. Is the offence which I have suggested against the municipal law, or can any offence be more serious than that by which the British nation might be drawn into the sad contest which has desolated, and is still desolating one of the fairest portions of the earth."

This decision, parts only of which have been extracted, in itself is sufficient to place the name of Alexander Stewart among the most eminent Judges who have filled that high office in Vice Admiralty Courts. It was regarded both in England and the United States as an able, and correct exposition of the International law on the subject. Numerous complimentary, and appreciative letters were received by him from both countries, some of which being official are to be found in the Public Records of the Province. Among others one from W. H. Seward, Secretary of State of the United States, and which was laid on the table of the House of Assembly at the time.

CHESAPEAKE.

"Hon. Receiver General, by command of His Excellency the "Administrator of the Government, laid on the table copy "of the following despatch from Lord Lyons, Her Majesty's Ambassador "to the United States, to the Administrator of the Government "enclosing copy of the annexed letter from the United "States Secretary of State to the American Consul at Halifax:—

WASHINGTON, FEB. 29, 1864.

"SIR,—I had on the 22nd instant the honor to receive your Excellency's despatches of the 16th and 18th inst., relative "to the case of the "Chesapeake".

I have the honor to transmit to your Excellency herewith "a copy of a despatch which has been addressed by the Secretary of State of the United States, to the United States Consul at Halifax, and which will make your Excellency acquainted "with the view taken by this Government of the case as it now "stands.

"A copy of this despatch was given to me by Mr. Seward the "day before yesterday. With his permission I send copies to "your Excellency and to Earl Russell to-day.

(Signed.) LYONS.

His Excellency Major Gen. Doyle.

WASHINGTON, FEBRUARY 24TH, 1864.

"SIR,—Your despatch of February 17th, No. 28, has been "received. I learn from it that the Court of Vice Admiralty "has decreed that the "Chesapeake" and her cargo shall be "delivered to her owners on the condition of the payment of "costs.

"Under the President's direction, I shall make this proceeding the subject of a communication to H. M. Government. In the meantime, I think it not improper to inform "you that this Government, while it adheres to the opinion "that the delivery of the "Chesapeake" ought to have been "made promptly and unconditionally by Executive authority, "is, nevertheless, gratified with the just and friendly proceedings H. E. the Governor of Nova Scotia in the premises, and "appreciates the enlightened and impartial spirit by which the "Vice Admiralty Court has been guided in a case attended with "some embarrassment and much local excitement.

"The Secretary of the Navy will be informed of your views
"in regard to the necessity for a convey of the "Chesapeake."

I am, &c.,

(Signed), W. H. SEWARD.

Lord John Russell on behalf of the British Government expressed himself in equally flattering terms on the merits of the decision. But as already indicated it subjected him to much unfair criticism. The truth was that amid the excitement and passions aroused by this unfortunate incident Stewart alone kept his head. Lawyers as well as laymen found themselves in this sudden and unexpected juncture utterly unprepared, and not until Stewart pointed out the way was it understood what should be done.

His posthumous reputation might easily rest on the Chesapeake case alone. In it are displayed that sound knowledge of principles that firm grasp of facts, and that ripe, and independent judgment which were always characteristic of the man, but never more so than in dealing with this case of international importance, presenting novel and difficult questions in the fact of a hostile community. He died in the following January, so that the case practically closed his judicial career.

Those of his Chancery decisions which have come down to us have already been referred to.

On the outbreak of the Russian War in 1854, he was, on the recommendation of the Right Hon. Dr. Lushington, Judge of the High Court of Vice Admiralty in England appointed the only Prize Court Judge in British North America, an office which he filled until the end of the war. While no prizes came before him for adjudication under this Commission, it is worthy of mention that a large number of cases were tried before him in the Vice Admiralty Court, seizures of American vessels for violation of the treaty. Although a number of these were taken before the Authorities in England, in no instance were his deci-

sions set aside or modified. Both the appointment, and the correctness of his decisions bear strong testimony to the reputation he enjoyed of being properly versed in international law and practice.

It is now necessary to relate the history of the abolition of the Court of Chancery and his action on a public matter so seriously affecting his position.

The Statute which brought about the extinction of the Court was passed in the Session of 1855, but did not come into operation until 1st August, 1856, when the Court of Chancery in this Province finally ceased to exist.

As was natural, even incumbent on him, Stewart defended the character of the Court with his usual vigour and ability. Now after the lapse of half a century when the actors have passed away, and the arguments *pro* and *con* can be considered dispassionately it must be conceded that he had the best of the controversy. It is a matter of history that for years before constant and growing complaints had been made in the Legislature and outside against the Court of Chancery, against its delays, its antiquated procedure, and the heavy expense of the litigation carried on. These complaints, however, had been directed against the Court in the time of his predecessors. As already mentioned among his first acts after his appointment were the publication of a series of new rules, and orders lopping off most of the objectionable features in the practice, and reforming the procedure. But the stigma remained, and it was a popular subject of attack. Stewart himself was not a favourite with the prominent lawyers on either side of the House. With some of his assailants the old time enmity still remained, and he enjoyed the doubtful friendship of his quondam friends. His temper, and independence of character were not of a kind to win support, and he was not the man to stoop to any methods for enlisting it. The abolition of the Court was of course a serious blow to him financially, and the Legislature at first, certainly the House of Assembly, were disposed to depose him without even allowing a

retiring pension. But in those days the Imperial Government was a factor which the Legislature had to take into account, and no act perpetrating such an injustice would have been allowed.

The first attack was made in the session of 1849 when under a resolution of the House of Assembly a Commission was appointed to inquire into the general jurisprudence of the Province. On this Commission Messrs. Howe, Johnston, Young, Harrington, Kenny, Marshall and Creelman were named, but nothing appears to have come of this Committee. Matters appear to have rested for two years, when in 1851 a resolution passed to appoint a select committee to take into consideration the propriety of abolishing the Court of Chancery. On this Committee were appointed Johnston, Marshall, Harrington, Young, Henry, Killam and Fulton, and on the 28th March, 1851, Mr. Henry reported, or brought in a bill to abolish the Court of Chancery and to transfer Equity jurisdiction to the Supreme Court. This bill actually passed the Lower House, but was rejected by the Legislative Council. As a result of this Mr. Johnston brought in a resolution to appoint a Commission to enquire into the practice, and proceedings of the Courts of law and equity, with a view of the transfer of equity to the common law jurisdiction, if it be practicable, and to prepare a bill. The members of the Commission were the Chief Justice Halliburton, Mr. Justice Bliss, J. B. Uniacke, and W. A. Henry. Their report is to be found in the Journals of the House of Assembly of 1852, Appendix No. 73. In this report they made no recommendation, but in the session of 1853 their final report was made which will be found in the Journals of the House of Assembly of that year, Appendix No. 16. The Commissioners were unable to agree on any report, but submitted their individual views. Mr. Young, afterwards Chief Justice, submitted his own in favor of the abolition of the Court, which certainly do not display any very profound knowledge of the subject. On the other hand the Chief Justice and Mr. Justice Bliss in able papers discuss the important question in the light of the great experience as Judges, and keen appreciation of the difficulties involved, and point out the inexpediency of such a radical change.

The most complete and able defence, however, was made by Stewart himself in which he met the charges of those urging the abolition of the Court with an array of facts and arguments to which no answer was then or afterwards attempted to be given. Strange to say that Stewart's paper although addressed to the Commissioners, and written at their request, was not published in the Journals of the House, although he asked that it should be there side by side with the report of the Commission. He took good care however that it should be preserved by having it recorded in the Record Books of the Court of Chancery.

The fate of the Chancery Court was sealed irrespective of reports. The Act already referred to was brought in, and passed by both Houses, but the Governor reserved his assent until the Home Government was first consulted. Stewart, however, once he saw the abolition was determined upon by the Legislature made no further opposition—in truth foreseeing that the measure would pass in any event he threw no further obstacles in the way. Considerable difficulty arose between himself and the Government in regard to his pension. It had by this time been discovered that the Home authorities would not allow the Act unless provision was made for the Judge. An offer was made to Stewart of a seat on the Supreme Court Bench, but as precedence according to the date of his Commission was refused, with that proud spirit he ever showed when his rights were involved he declined it, although his pension was less than the salary of a Supreme Court Judge.

The honourable course pursued by Stewart in connection with the abolition of the Court of Chancery and the high estimation in which he was held is best exemplified in a despatch from the Lieut-Governor, Sir Gaspard Le Marchant, to Lord John Russell, dated May 2nd, 1855, some extracts from which are now given.

“Having had occasion in my despatch No. 48, dated May 1st, 1855, to mention the creditable conduct of the Master of the

Rolls in facilitating the passage of a measure which was deemed beneficial to the Province, though it is detrimental to his own interests, I consider it my duty now to submit for your Lordship's consideration the accompanying application from the Master of the Rolls that some mark of the Royal favor be conferred upon him of the like nature as was granted to Sir Rupert George at the instance of Sir John Harvey, when he ceased to be Provincial Secretary.

I have already in my despatch No. 50, dated 30th August, 1854, expressed the sense I entertained of Mr. Stewart's public services, and I perceive among the testimonials that he has been once honored by a communication from your Lordship. His long public career, extending over a period of 29 years, and the high judicial office he has held, the duties of which he has performed so creditably to himself, and so satisfactorily to the community may, I hope, be the means of inducing your Lordship to recommend this gentleman for some such distinction as those suggested. Such an honor having a value not merely Colonial, but Imperial conferred upon one of Her Majesty's Colonial subjects, who had honorably distinguished himself in Her Majesty's services would be prized in the highest degree not only by the recipient himself but also by his fellow colonists, as tending to confirm their union of interests, and advantage with those of Her Majesty's subjects in the mother country." To this Lord John Russell replied on the 20th July, 1855, after referring to Sir Gaspard's despatch, he says: "I have to inform you that your recommendation of Mr. Stewart has been attended to, and that his name will be submitted to the Queen for the honor of being appointed a Companion of the Civil division of the most Honorable Order of the Bath as a mark of Her Majesty's Royal approbation of his services under the Crown."

The despatch referred to by Sir Gaspard Le Marchant No. 50, 30th August, 1854, is important as giving the opinion of previous Governors of his services. Stewart had applied, and applied in vain to the Imperial Government to award him a fixed

salary as Admiralty Judge. The despatch says, "Mr. Stewart accompanies his application with a statement of his services he has rendered to the Imperial Government in his capacity as Judge of Her Majesty's Court of Vice Admiralty at Halifax, and I beg most respectfully to request your kind and favourable attention to that memorial. My predecessors in this Government, Lord Falkland and Sir John Harvey, under whom Mr. Stewart held this appointment, have both of them spoken highly on several occasions in their public despatches of the Judge's claims on the consideration of the Imperial Government, and to their recommendation I beg to add my own. I am also happy in having this occasion of placing on official record for the information of Her Majesty's Government my own sense of the services rendered by Mr. Stewart both to the Province and also to the Crown in his twofold capacity of Master of the Rolls, and Judge of the Vice Admiralty Court, and I hope that in bringing this memorial before his Majesty's Ministers you will be pleased to give the same your kind and favourable support, &c., &c."

In relation to the same subject an extract from the letter of the Provincial Secretary the Honorable Joseph Howe, on the 30th March, 1855, may be given. "His Excellency commands me to express to you his gratification at your ready acquiescence, so far as your own personal interests and wishes were concerned, in the views of the Legislature in consequence of which he will be enabled to recommend the Act for the abolition of the Court of Chancery to the favourable consideration of Her Majesty."

These public documents bear high testimony to the broad minded spirit in which he bowed to the will of the Legislature, and show that no narrow selfish interest could induce him to throw obstacles in what that body thought was an impediment in the administration of justice. After the spirit he had displayed in this matter one would have looked for generous treatment and consideration by the Government of the day. But it was far otherwise. It is difficult to believe that public men—old opponents it is true—could descend to tactics so unworthy as

to endeavour to deprive him receiving the mark of distinction for which the Governor recommended him, but the Provincial Records disclose that the members of the Government addressed the Governor in a Minute dated 4th Dec. 1855, protesting against the conferring of any such honour. That protest was signed by Tobin, Young, McNab, Creelman, Henry and Wilkins. The minute states that the attention of the Council has been called to Mr. Stewart's letter enclosed in Sir Gaspard's despatch of April, 1855, and Lord John Russell's despatch of 20th July, 1855. That Mr. Stewart's judicial services do not in the opinion of the Council entitle him to the honor above other public men whose public services have been greater and more entitled to distinction. That the mere rumour has caused dissatisfaction among the party supporting the Government and they express a hope that if the distinction has not yet been conferred that Her Majesty's Government may interfere to prevent it taking place. That the claims of other public men were much stronger than his, and that it would create much irritation among a large portion of Her Majesty's subjects in the Province. Sir Gaspard gave these gentlemen a quick and effective rejoinder by informing them that bestowing of honours was the prerogative of the Crown, and he was therefore under no obligation to consult his Council as to the persons on whom they should be conferred, and that if he had done so it would follow from their mode of reasoning that no one who was not of the same party as the Council could ever receive such honours, and that he considered their action an infringement on the Royal prerogative. In this view the Governor was fully sustained by the Home authorities. The Secretary of State for the Colonies, Mr. Labouchere, in answer to the despatch communicating the Minute of Council says, "Although the opinion of your Council in matters of public importance relating to the Colony are entitled to the greatest consideration, yet in the present instance Mr. Stewart's name has been submitted to Her Majesty for the distinction as you were informed by Lord John Russell's despatch of July last. Her Majesty's Government therefore cannot interfere on the present occasion, they would in doing so cast an unmerited reproach upon the name, and character of Mr. Stewart

without anything to justify it.....You are not bound by such opinion (the Council's) and must exercise your own general discretion in recommending parties for Honorable distinction which are to be conferred for merit and services, irrespective of party, and which will be approved of by the entire community."

So was defeated this ingoble attempt on the part of his adversaries to prevent the bestowal of a well deserved honor. First they tried to drive him off the Bench without compensation of any kind, then confronted with the impossibility of obtaining Imperial sanction to the Act of abolition without providing a pension, they fixed it at the smallest figures possible, and lastly did their utmost to thwart him in the reception of those honours which the Sovereign was recommended to confer. To close this incident in his career on the 18th February, 1856, when he was in London he received the following notice:

SIR,—The Queen having been graciously pleased to command that an Investiture of the most Honorable Order of the Bath shall be holden at Buckingham Palace on Friday next, the 22nd inst., at a quarter before three o'clock precisely, I have the honor by Command of His Royal Highness the Prince Albert, great master of the orders to apprise you thereof, in order that you may attend Her Majesty on that day for the purpose of receiving the Insignia of a Companion of that Most Honorable Order.

I have the honor, &c.

ALBERT W. WOODS.

Lancaster Herald & Gentleman Usher of the Order.

He attended at the Palace as requested, and on that day the Queen personally affixed to his breast the decoration, and immediately thereafter he attended the Queen's Levee, and was presented. Among the large number of presentations on that occasion is the following notice. "Mr. A. Stewart, Judge of the Vice Admiralty Court in Nova Scotia on receiving the Order of the Bath by Mr. Secretary Labouchere."

Among other press references to this event is the following taken from a New Brunswick paper expressive of the high estimation in which he was held:

"The Gazette of February 5th announces the appointment, by Her Majesty, of the Honorable Alexander Stewart, of Nova Scotia, to be a Companion of the Most Honorable Order of the Bath.

The Honorable Alexander Stewart, C. B., is well known in New Brunswick, as a distinguished Member of the Bar both in this Province and in Nova Scotia. He is a native of the latter Province, where for many years he took a leading part in politics, and having displayed great ability in his profession, he was advanced to the dignity of Master of the Rolls in Nova Scotia, and also appointed by the Crown, Judge of the Court of Vice Admiralty in that Province.

As Master of the Rolls, the judgments of the Honourable Mr. Stewart were always marked by great ability, and evinced a vast store of legal learning. It is creditable to the soundness of his opinions, that although appeals were several times taken, not one of his judgments was ever reversed or modified. When the Court of Chancery was abolished in Nova Scotia, he offered no opposition to the change, but retired on an allowance, retaining however his position as Judge of the Admiralty Court, which he still holds.

The appointment of the Honorable Mr. Stewart to the Order of the Bath, is a high mark of Her Majesty's approbation of his abilities and merits, and very likely may be only the forerunner of still higher promotion."

Stewart was naturally very proud of this honor coming as it did from the Imperial Government when such honors were much more rarely conferred on colonials than they are today. In a communication to the Governor, he says "And I shall be deeply grateful if my children, friends, and fellow subjects shall have

it in their power, if I am considered worthy of any such distinction, to point to it as a proof that public services performed in a colony and by a colonist may lead to Imperial honors as surely as when performed in England under the more immediate eye of the Sovereign."

A short reference may here be made to what followed the abolition of the Court of Chancery. This can best be stated in the following extract taken from a paper read before the Historical Society of Nova Scotia on the "History of the Court of Chancery in Nova Scotia."

"Whether on the whole a mistake was committed in abolishing the Court of Chancery or not is fairly open to argument. Looking at the question in the light of experience I come to the conclusion that the administration of law and equity by one tribunal is the best and most conducive to the interests of suitors, and in so far as that was the object of the legislature it was wise. This object, however, was not accomplished except in name for our legislature of that day had not grasped the basis on which the fusion of law and equity could be brought about. Indeed it was not successfully accomplished in England for many years after, and then only after the most patient, and searching investigation by the greatest legal minds in the country. What it did effect was a serious muddle in the administration of justice, and its result was most injurious in its effect on the legal profession. It is easy to destroy an old existing institution, but it takes time, men of genius, knowledge, and experience to reconstruct. The best evidence of the mistake then committed was that in the very short period of eight years the Legislature found it necessary to reestablish the same Court under another name. the Court of Equity—to the Judge of which all equitable business was again exclusively assigned. Great injury was brought upon the legal profession by the abolition of the Court of Chancery in leading to the neglect of the study of equity jurisprudence. The lawyers of the succeeding generation, and until the Judicature Act was brought in devoted

their energies almost entirely to the Common Law, not realizing the necessity, they rarely acquired any thorough knowledge of equity principles, and procedure. Equity as administered in the Courts of law—at least up to the time the late Mr. Justice Ritchie became Equity Judge—was not remarkable for its depth and learning, and adherence to sound principles, and there was little encouragement to pursue it."

Stewart was still living when the Court was re-established, and thought the position of Judge in Equity should first have been offered to him, but strange to say his old rival for the seat, the Honorable James W. Johnston, was again a claimant and accepted the Judgeship. Mr. Johnston's claims were doubtless very strong, as he had been in the service of his country in the Legislature for a very long time, and ranked high in the legal profession.

Very little of Stewart's private correspondence has been preserved, which is greatly to be regretted, as he excelled in this respect. Moreover, no better index of a man's mind and characteristics is to be found than in that free and natural interchange of sentiment not at the time intended for the public eye. Some extracts from a correspondence carried on between himself and one of his grandsons, a student-at-law, during the last five years of his life, throw some light on his character, and the pervading ideas of his life. He was greatly interested in the education, and future career of this grandson, and these letters were written to him from time to time for his guidance, and instruction.

In a letter, 16th March, 1861, to him, at that time an undergraduate at Kings College, Windsor, he says:

"Next to accurate knowledge of the facts is the care required to use the precise word which radically, grammatically, and idiomatically expresses the idea you wish to express, and finally a careful revision and correction of what you write. Don't labour after metaphors and similes at first. They will suggest

themselves if I may so express it in due time. Seek only to write clearly, to use the most appropriate language, and to understand what you are writing about. I have drawn your attention to these matters for general use. But it is so much the view of Nova Scotians to regard gab as everything, that you cannot be too careful in laying up accurate knowledge and accustoming yourself to reject everything as knowledge until you are sure that it is accurate. To myself who have been studying the principles of British Institutions political, social, and civil more than half a century, the trash which is the staple of our Parliamentary passages is inexpressively offensive. Fraud and mendacity, cheating and lying are charges freely made on both sides of the house, and if not among our household gods, are assuredly becoming household words among us, nor do I see any chance of amendment. In the United States the fruit of unlicensed speaking, and printing is overspreading with their noisome exhalations the whole land. Meanwhile for young and old, for you and me there is a better country near to me, but probably a few years further off from you, which may be obtained by all who rightly seek it, among whom I trust you and I are to be numbered."

Again on March 23rd, he writes on the subject of self reliance. "As to self reliance the few govern the many. The great majority of men lean upon others. It is energy, superior energy, indomitable will, fixity of purpose, that distinguish the men of mark from their fellows. These are the qualities which have placed Howe, Tupper and Johnston in the foremost ranks in our own little country. Pitt the elder and his scarcely less distinguished son endured no contradiction. Pray don't skim over anything you read. If worth reading at all, it ought to be thoroughly understood. One page thus read is worth a volume skimmed."

His deep religious feeling is shown in the following letter addressed to his grandson on the completion of his College course, dated 26th June, 1862. "Your highly creditable termination

of your collegiate course could not but give one great pleasure. Be it your earnest purpose to realize the hopes which it will excite in your friends, and above all things never forget that though Paul may plant and Appolo water, it is God alone that gives the increase. Never forget that it is to Him only you must refer all your doings, and come weal, come woe, depend on it 'finis coronat opus.' "

On the 16th Nov, 1862, answering an enquiry as to the desirability of committing to memory a book of legal maxims, he says: "The maxims you refer to are very good in their way, but they must ever be regarded *cum grano salis*. Paley will tell you 'that the general consequence of any act overrules the particular consequence of it.' And I tell you that law is a system of complicated rules adapted as far as possible to the ever varying conditions of society binding the Judge as well as the suitor, and prohibiting the former from deciding '*secundum esqum et bonum*' in the particular case before him'. He then adds "I do not think you will find in either the Book of Maxims the following, but I recommend you to commit them to memory, and habitually act on them:

- 1st. The prayer commencing "Pater noster, and ending with "seculas seculorum."
- 2nd. Whatsoever ye would that men should do unto thee, do ye even so unto them.
- 3rd. Live within your income whatever it be, and don't believe any person who tells you, it is impossible.
- 4th. Never shut your ears, or your heart or your pocket to the prayer of the poor.
- 5th. Gather gear by every wile that's justified by honor.

"Not to hide it in a hedge
Not for a train attendant
But for the glorious privilege
Of being independent."

You may rely on it that no man can be independent who is in another man's reverence, as the Scotch express it,

On the 2nd Dec, 1862, he writes:

"What I wish to impress on you is not the desire to accumulate wealth for its own sake, but to avoid poverty with all its attendant degradations for your own sake. And this is to be done by attention to the halfpennies, and pennys, the dimes and the cents. Above all avoid the error of looking down with lofty contempt on those who act on the principle of legitimate economy."

On January 20th, 1863, in referring to the state of public morality, he says: "The truth is the success of * * * impels me to think that honesty is not the best policy, but I am too old to act accordingly. The '*mens consci recti*', however, to speak plainly is a valuable possession. Never part with it. It is its own reward. It is better than learning of which it is said or sung:

"When houses, and lands are gone and spirit
"Then learning is most excellent."

Another instance of the spirit which permeated all his actions and feelings is found in the following letter of January 23rd, 1864. Apparently a newspaper criticising severely and harshly his course in the celebrated "Chesapeake" case had been sent to him by his grandson. After stating that he had read, and immediately burnt it he says, "Let me impress it on you as a rule never to be departed from, on no occasion to be the messenger, or communicator of disagreeable things to any man, except a sense of duty impels you to do so. Sedulously avoid this, and you will find it a useful principle to guide you, as you jog along through life, and moreover never let any person whomsoever communicate to you anything disagreeable, or what has been unkindly said of you. Don't listen to it, unless indeed it affects your integrity and calls on you to vindicate your character. But gossip avoid as you would poison." Then referring

to the criticism on himself, he adds "But the freedom of the press is essential to the purity of the administration of justice and therefore undeserved censure is not unacceptable to me. Wrong I may be but it would be much more gratifying to me to see by the writings of the authors of the various strictures on my conduct, that the writers really understood what I did say." He then adds that the newspapers had absurdly misrepresented what he had said.

A very pleasing insight into his disposition is to be found in a letter to his grandson, dated April 18th, 1864—who had written in an angry spirit to him in regard to an office which had been promised but not obtained. He says: "You are, or will be disappointed in not obtaining an office. I was turned out of my office at an advanced age by Mr. Howe, Mr. Johnston and Mr. Young. It never entered into my mind or heart to cherish revenge on them therefor. Never in the whole course of my life did I wittingly do anything to revenge myself on any man. Vengeance is mine saith the Lord, and I will repay. I earnestly adjure you to forcibly wrench from your mind all vindictive feeling. But the violent animosity to which you give utterance ought to be subdued. Depend on it you will be happier, and in the end more prosperous than by indulging in so corroding a passion as revenge. If the religion of Christ be the truth, and you believe it to be the truth, if you do not abandon that purpose you must in future omit that part of the prayer he taught his disciples, viz, 'Forgive us our trespasses as we forgive them that trespass against us', or make a special exception as regards *** But my maxim was and be it yours—

'Here's a hand for those who love me
And a smile for those who hate,
And whatever sky's above me
Here's a heart for every fate.'

Get your profession, attend carefully to your business, gather gear, and everything else will follow in due time."

"I hold it, he says, to be a religious duty. If a man makes a promise to his hurt to keep that promise good. This, and the rule to do unto others as you would that they should do unto you will be found very useful in your progress through life, and in judging of men, and their conduct, do as is your mother's invariable wont, always put the kindest construction on their motives, and conduct."

This correspondence, a small part only of which is given here presents in a striking manner the innermost sentiments of the man, his high culture, his deep and strong religious and moral feelings, his practical wisdom in the affairs of life, and the lofty, christian spirit which actuated, and guided his conduct in all his dealings with his fellow men. Although a successful man, eventually gaining the highest hopes of his ambition, as these memoirs have disclosed, he was destined to encounter many obstacles in his road through life. The joy of victory must have been saddened by the persistent malignity of his enemies jealous of the honors he won for himself despite their determined efforts to thwart him. His courageous spirit never bent beneath theirs worst attacks, and his "*Mens consci recti*" sustained him in the proud consciousness of the uprightness of his conduct, and purity of his motives.

Before turning to the last year of his life some account of his family should be given. As already stated his wife lived for twenty eight years after his death. Of his children four daughters and one son survived him. The eldest daughter Elizabeth married the Reverend George Townshend, Rector of the Parish of Amherst, the second Mary married the Honorable Senator Dickey of Amherst, the third the Rev. Donald Bliss, Rector of the Parish of Westmoreland, Province of New Brunswick, and the fourth Lt. Col. H. W. Clerke, formerly a Captain in H. M. 62nd Regt. His only son, Lt. Col. Charles J. Stewart, resided in Amherst until the death of his father and then removed to Halifax. With the exception of Mrs. Clerke all the members of his family were thus settled in Amherst and its vicinity, forming

with their children a loving and interesting society. With their husbands they exerted a leading, and useful influence in the religious and social affairs of the place which up to the time of his death was still a small country town. As their children grew up to manhood they gradually took important positions in the social, political, and business affairs of the place and county.

LAST YEARS.

The last decade of his life just filled the period between his retirement from the Chancery Bench and his death. After the abolition of the Court with the exception of his duties as Judge of the Vice Admiralty Court, at that time not large, his occupation was gone. A busy life of unremitting labor had come to an end. He was still in the full possession of his intellectual power, and in comparatively good health. His mind, always active loved work for its own sake—it was his second nature. From his earliest years he had been trained, or trained himself to the habit of constant, unceasing application to whatever demanded his attention. His professional duties at the Bar—his political duties in the Legislature and in the Government, and his judicial duties on the Bench had afforded him that full measure of work which was so congenial to his nature. The abrupt termination of his hitherto laborious life now brought about left him at an age when it was too late to begin anew, in a most unhappy position. It was not that he had not ample means to live upon, for he had wisely provided against such a contingency. What was he to do to fill the void. It was in his view unbecoming in one who had filled the high position of Master of the Rolls of the Province to resume either professional, or public life, although he was sorely tempted once more to enter the political arena. Always in his most busy days fond of reading he now strove more earnestly to find a resource in the current literature, and scientific questions which were constantly coming for discussion. In these he took a great, and intelligent interest, but trained as he had been in the school of legal, and political life, such occupation did not fill the void.

He pined for work in keeping with his past activities, something which would preserve him from the rust of idleness. This complete change in the habits of a man of his temperament, his energies not yet blunted by old age, had the most baneful effect on his health. This change did not come about at once, but gradually in the course of the few remaining years of his life it began to tell on him with ever increasing rapidity until the foundations of a naturally strong constitution were sapped.

As soon as the business of the Chancery Court was wound up he went abroad with his family, travelling in England and on the Continent, enjoying the society of his many friends in the old country. He spent a year or more in this way, and returned to his old home in Halifax where he passed the remainder of his life. His restless spirit, however, rebelled against the enforced idleness of his life. Nothing could, or ever did reconcile him to this monotonous existence. In one respect, however, he was fortunate in having the comfort, and society of his children married happily and well, and all living in the Province with their children in whom he took the fondest interest. As had been his custom when on the Bench during vacation he spent his summers in Amherst, and its vicinity, where with the exception of his youngest daughter they all lived. His relations with his children, and grandchildren were of the most affectionate, and tender kind. He in return enjoyed their highest respect and devotion. He was their wise counsellor in all their trials and difficulties, and for those who needed it his purse was always generously open. Through his paternal influence the bonds of affection and family unity were preserved amongst them all so that notwithstanding the numerous connections and divers interests there was no sound of discord to be heard. Such was his life, varied with an occasional visit to England and in daily intercourse with those of his old friends who still resided in Halifax. His duties in the Admiralty Court with some few exceptions were not heavy, and he filled in his leisure hours in reading, and walking of both of which he was very fond. He died in Halifax on the first of January, 1865, about ten years after

the abolition of the Court of Chancery, at the age of seventy one. His remains were taken to Amherst where they lie in the English Church yard, alongside of which twenty-eight years later were placed those of his well beloved wife.

In a kind and sympathetic letter to his only son, Lt. Colonel Charles J. Stewart, the late Mr. Justice Dodd conveyed to the family the feelings of the Judges and the Bar. As this address expresses in eloquent terms the opinion of those who were familiar with his public, and judicial career, and were best qualified to judge his merits it is given in full. Mr. Justice Dodd who was appointed to convey the address, and resolution says, "I may add that in the loss you have sustained I have been deprived of a dear, and valued friend, whose memory I will long respect and esteem." It is worthy of note that the Chief Justice Young, one of his bitter opponents, the Judge in Equity Johnston, his formidable rival, and the late Judge Henry, of the Supreme Court of Canada, then Attorney General, all took part in and endorsed the sentiments therein expressed.

All these former opponents in political life joined with his warm friends in placing on record the proudest eulogy of his character and learning which any man could desire.

"At a meeting of the members of the Bench, and Bar of Nova Scotia held at the Law Library in Halifax on the third day of January, A. D., 1865, on the occasion of the decease of the late Judge Stewart, C. B.

His Lordship the Chief Justice in the chair. The object of the meeting having been mentioned addresses eulogizing the character of the deceased having been delivered by the Honorable Judge Johnston, Bliss, and Dodd, Honorable Attorney General, the Prothonotary, and other members of the Bar, the following resolutions were unanimously adopted.

RESOLVED unanimously, that this meeting has with deep regret to record in its minutes the death of one of the oldest

of its members, the Honorable Alexander Stewart, C. B., Judge of the Court of Vice Admiralty for this Province and formerly Master of the Rolls.

An able, energetic, and successful advocate, he was no less distinguished as a Judge by the sound leaning, and patient assiduity which he brought to the investigation of truth than by his upright, and impartial administration of the law, and the dignity with which he presided over the Court of Justice.

At this time especially when questions of International law, involving great, and momentous interests may be more likely to arise the loss of one is more deeply deplored whose studies and habits of thought, and calm and dispassionate judgment, so well fitted him for the consideration of such subjects.

He ever sought to sustain the rights and elevate the character of the Bar practising in his Court, and his kindness, and courtesy in his encouragement of the younger members of the profession will ever be held in grateful recollection, while in the fulfillment of the duties of private life he maintained an unblemished reputation.

RESOLVED, that the expression of the feelings both of the Bench and the Bar be duly published, and a copy thereof be transmitted to a Committee consisting of the Honorable Mr. Justice Dodd, the Honorable Attorney General and the Honorable the Solicitor General to the family of the deceased, with an expression of the sincere sympathy of the whole profession in the bereavement they have sustained.

FURTHER RESOLVED, that the Bench, and Bar do attend the funeral in a body, and do wear crape for the period of one month."

Such addresses, and resolutions are in many cases mere perfunctory performances, but it may safely be left to those who have pursued these imperfect memoirs to say whether they do not genuinely represent the estimation in which he was deservedly

held by his fellow citizens at the time of his decease. No words could sum up more accurately, and tersely the general tenor of his life, and conduct, and judicial acquirement. Nothing more is needed to show that Alexander Stewart was a man well worthy of the respect, and admiration of his fellow countrymen, and that his name justly deserves to be handed down to future generations.