yet entirely disappeared; the accumulation of books on the right side of the counsel table in the picture of the court room before 1903 affords visible proof of the existence of the practice at that time. It was not until toward the middle of the nineteenth century that papers were regularly prepared and given the judges for reading; the practice of doing so was once an innovation, and like all other innovations had its opponents and viewers with alarm. Lord Eldon's custom earlier in the nineteenth century of reading the papers in his chancery cases for himself was an innovation in its time, disapproved by his professional brethren. Lord Campbell [26] said,

> In the first place, it is impossible. In the vast majority of cases which come before a judge, * * * * he must take the contents of written documents from the counsel, trusting to their honor and accuracy, and to their reciprocal supervision. Secondly, it would be exceedingly dangerous for a judge to be in the habit of deciding upon facts or points of law of his own discovering; for if noticed at the bar, they would very likely have been found capable of being easily answered or explained away. Thirdly, such a habit must breed a morbid propensity to doubt, and it holds out a tempting bait to procrastination, by affording a ready excuse for idleness.

At the time with which we are now dealing, then, and for many years after, only one copy of the record, in manuscript, was filed on appeal, and that was read in court. No briefs were filed, but it appears that lawyers sometimes left their own notes of argument with the judges when a case was taken under advisement. One case at least was submitted on such notes.[27] But the effort in

26. Lives of the Chancellors, chap. ccxiii, vol. vii, 628 ff. of 1847 ed.
27. Hemsley v. Nicholson's Lessee, 3 Harris & McHenry, 409. The fact of submission appears in the original papers.