

THE FIRST REPORT OF THE JUDICATURE COMMISSION.

and beloved as he was, he has already ceased to form a topic for public conversation. There are still some few who like to talk over the days that are gone by, and to recount his popularity and his triumphs at the Bar and on the hustings. But considering that a quarter of a century has scarcely elapsed since his death it is surprising, and somewhat melancholy, that so few tongues continue to speak of the once famous JOHN JONES, OF YSTRAD.

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(From the Law Magazine.)

We rejoice to find that the changes advocated in this Magazine have found favour with the Judicature Commissioners. There has not, probably, for years been a Commission whose labours have proved so thoroughly satisfactory to the public. There is not the slightest hesitation in suggesting the eradication of proved abuses, however venerable from their antiquity. How best to promote the convenience of suitors, and of the public at large, has been the single aim of the Commission.

The Commissioners propose that the Superior Courts of Law and Equity, together with the Courts of Probate, Divorce, and Admiralty, should be blended into one Court, to be called "Her Majesty's Supreme Court." This Court is to be divided into as many chambers or divisions as the convenient despatch of business may require. All suits are to be commenced with a document called the writ of summons, such writ to be specially endorsed with the amount sought to be recovered; a short statement of the facts constituting the plaintiff's cause of complaint—not on oath—called the declaration, to be delivered by the plaintiff to the defendant. Thereupon the defendant should deliver to the plaintiff a short statement, not on oath, of the facts constituting the defence, to be called the Answer. When new facts are alleged in the Answer, the plaintiff should be at liberty to reply. The proceedings should not go beyond the reply, except by permission of the judge. As to the mode of trial, great discretion should be given to the Supreme Court, and any questions to be tried should be capable of being tried in any division of the Court, (1) by judge, (2) by a jury, (3) by a referee. There should be attached to the Supreme Court, officers called official referees. Evidence, as a rule, to be taken by oral examination in open Court, except upon interlocutory application, in which case the evidence, as a rule, is to be taken by affidavit. If Terms are not to be abolished, it is recommended that there should be three instead of four Terms, commencing on November 2, January 11, and May 1, in each year. No distinction to be made between business capable of being transacted in Term and out of Term. The venue for trials to be enlarged, and several counties to be consolidated into districts of a convenient

size, and that such districts should, for all purposes of trial at the assizes, both in civil and criminal cases, be treated as one venue or county. Among other recommendations regarding juries, the Commissioners recommend that aliens, having been resident in this country for ten years, should be liable to serve as jurors, and that alienage should not be ground of challenge. The right of an alien to claim a trial by a jury *de medietate lingue* to be abolished.

On the important subject of Appeals, the Commissioners, after some very proper and justifiable strictures on the inconveniences of the present appellate system, recommend the establishment of a Court of Appeal, consisting of six permanent judges, and three judges of the Supreme Court to be nominated annually by the Crown. A direct appeal to the House of Lords to be allowed in those cases where the respondent consents, but not otherwise. No appeal, as a general rule, to be allowed as to costs only.

We think that some exception may be taken to the name of Supreme Court as applied to a court from which there are a succession of appeals. We regret to find that the Commissioners have not thought fit to diminish the number of appeals. While putting an end to the absurdity of the Exchequer Chamber, and establishing a strong Court of Appeal in its stead, they yet allow the judgment of this Court to be subject to an appeal to the House of Lords. The consequence might be, that a well-considered judgment of nine judges might be upset by two or three law lords. We should rather prefer that there should be no appeal from the Court of Appeal to the House of Lords, but that the law lords should form part of the Court of Appeal. The appellate court would thus be strengthened, and the mischief of the double appeal abolished. Mr. Ayrton very properly questions "whether it is desirable to allow such facilities for appealing and repetition of appeals." The Commissioners seem, however, to think it beyond the scope of their authority to suggest any change with regard to the appellate jurisdiction of the House of Lords.

We rejoice to find that the Commissioners recommend that the present preposterous system of four legal Terms should be abolished, and that in case it should be thought advisable to retain any system of legal terms at all, there should be three Terms at convenient periods of the year.

DR. COLENZO.

Can Dr. Colenso be tried for heresy? Such, in effect, is the question to which public attention has once again been invited. Although the Bishop of Natal has been the "hero of a hundred suits," for some cause or other no competent tribunal has pronounced as yet on his orthodoxy. To only one indeed, that of the Bishop of Capetown sitting at Capetown as Metropolitan, has it ever been submitted.