

THE REPORT OF THE JUDICATURE COMMISSION.

of the said Court, and before the Judges thereof, upon paying such fees as the said Court shall by its general rules or orders fix and determine, and upon signing a roll to be kept in the custody of the Registrar of the said Court amongst the records thereof, to be called "The Barristers' Roll."

88. All persons being Attorneys, Solicitors or Proctors of the Superior Courts of any of the said Provinces shall be admitted to practice as Attorneys, Solicitors and Proctors in the said Supreme Court, upon taking such oath and paying such fees as shall by the said Supreme Court be prescribed and fixed, and upon signing a roll to be kept in the custody of the Registrar of the said Court amongst the records thereof, to be called "The Roll of Attorneys and Solicitors."

89. [Judges to make rules of procedure as well in appellate as original jurisdiction, but which shall not vary or in any way alter or affect any provision of the code of procedure of the Province of Quebec.

90. This Act shall come into force so soon as His Excellency the Governor General shall issue his proclamation so declaring.

91. This Act may be cited as "The Supreme Court Act."

SELECTIONS.

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The Commissioners appointed to "inquire into the operation and effect of the present constitution" of the Court of Chancery, the Superior Courts of Common Law, the Central Criminal Court, the Courts of Admiralty, Probate, and Divorce, the Admiralty of the Cinque Ports and the Common Pleas of Lancaster and Durham, and the Courts of Error and Appeal from all the said Courts, have made their first Report. Whether the Court of Chancery of Lancaster was excluded from the purview of the Commissioners advisedly or *per incuriam* we do not know; but at any rate there is no mention of that court either in the Commission or the report, an omission at which we feel the more regret because we had been led to expect that a most important and beneficial change in the character and constitution of that court would have been recommended.

It is not necessary, writing as we do for the profession rather than the public, to say a word in explanation, either of the importance of the questions submitted to this Commission, or (beyond the pure recital of the Commissioners' names) its fitness for the task imposed upon it. The Commission as nominated consisted of Lord Cairns, Sir William Erle, Lord Penzance (then Sir J. P. Wilde), The Lord Chancellor (then Vice-Chancellor Wood), Mr. Justice Blackburn, Mr. Justice Montague

Smith, Sir J. B. Karslake (then Attorney-General), Sir Roundell Palmer, Vice-Chancellor James (then Vice-Chancellor of Lancaster), J. R. Quinn, Q.C., Mr. Registrar Rothery, Mr. Acton Smee Ayrton, Mr. Ward Hunt (since Chancellor of the Exchequer), Mr. Childers (now first Lord of the Admiralty), Mr. Hollams (Thomas & Hollams), and Mr. Francis Dobson Lowndes (Lowndes & Lowndes). Very shortly afterwards it appears to have been thought that the chancery element was too strong on the Commission, for the civil and common law elements were strengthened by the addition of Sir Robert Phillimore and Mr. Baron Bramwell respectively, while the country solicitors were represented by Mr. William Gandy Bateson, of Liverpool. Finally, since the last change of Government the names of the present Attorney and Solicitor-General have been added.

The Report before us is signed by everyone of these gentlemen, though some of them have (as might among so many have anticipated) appended to their signatures certain notes either qualifying their concurrence in or signifying their dissent from some of the recommendations.

The Report opens with a concise and lucid account of the origin, progress, and present state of the various distinctions of jurisdiction now existing, and expresses an opinion (not exactly in terms but in substance) that the attempts made in the various Common Law Procedure and Chancery Amendment Acts to remedy the inconveniences arising therefrom are defective in principle as well as deficient in extent, and it illustrates the completeness of the separation between the different jurisdictions, even when they appear to be most intimately "fused," by a reference to the present state of county court jurisdiction which is so completely apposite, and so incapable of condensation, that we give it entire:—

"The county court has jurisdiction in common law cases up to £50 in contracts, and to £10 in torts. It has also equitable jurisdiction in certain cases when the value of the property in dispute does not exceed £500, and in at least one of such cases, namely, an administration suit, it is now competent for any county court judge to restrain the prosecution of actions brought by creditors in any of the Superior Courts of Common Law. By an Act of Parliament of last session some of the county courts have also been invested with Admiralty jurisdiction in a large class of cases, where the amount in dispute does not exceed, in some cases, £150, and in others £300. There is an appeal in each class of cases, within certain limits, to a Court of Common Law, to the Court of Chancery, or to the Court of Admiralty. But these jurisdictions, though conferred on the same court and the same judge, still remain (like the common law and equity sides of the old Court of Exchequer,) quite distinct and separate. The judge has no power to administer in one and the same suit any combination of the different remedies which belong to his three jurisdictions, however convenient or appropriate such redress may be. That can only be accomplished under the county court system, by three distinct suits brought in