

ADMINISTRATION OF JUSTICE.

system without first building up another on a plan better adjusted to the requirements of substantial justice, would not be the act of a statesman or a jurist. He doubtless felt that so to build would be a work so vast and important as to require absolute and entire devotion to the subject for a longer period than any Government or any member of it could give. The Attorney-General has therefore taken up certain defects, and though they are few in number, the question with us is whether he has not possibly attempted too much at first.

We have only time to do more than make a brief reference to some of the clauses in this Bill.

The first section lays down a rule dimly recognized as the law exists, but sound in principle, and which, if carried out, must prove beneficial. No doubt this section is intended to be a key to the whole statute, and subsequent clauses would be read having regard to this legislative direction.

Section 2 requires much consideration. "A purely money demand" is leaving a good deal to interpretation, and may admit of much difference of opinion in the application of the terms to particular cases. We are not now prepared to say that a better term could be employed if designed to be used in the broadest and most comprehensive sense, and it is difficult to understand how such cases should have gradually passed to the exclusive jurisdiction of a Court of Equity. The rigid rule as to judgments and as to parties in the Common Law Courts was no doubt the great barrier. Section 8, in particular, seems a necessary complement to section 2; a careful examination of the clause may suggest an alteration in the language. The principle of the proposed enactment we approve.

Section 3. This enlargement of the equitable plea, &c., has our entire approval, and we think it is so framed that its

value cannot be impaired by a narrowing-down process, which to a great extent curtailed the benefit of the similar provision recommended by the framers of the English C. L. P. Act.

Sections 4, 5, 6, and 7 relate to equitable defences, &c., in ejectment, and with respect to them we should like to hear some explanation before expressing an opinion beyond this, that the principle of allowing equitable defences to avoid the necessity of a suit in Chancery ought to be extended to actions of ejectment. A demurer to a notice is a new feature, and in considering these clauses it ought to be borne in mind, that the notice is no part of the record. To be in keeping with the proposed change the notice or its equivalent should form an integral part of the record.

Without committing ourselves to details we may say that the proposed enactments in sections 9 and 10 are in our opinion desirable and necessary. They aim at a tangible evil, a standing reproach in our system of administration, an evil against which foreign jurists have levelled many a shaft. It is absurd when a suitor comes to a Court of Justice to obtain justice that he should be told "we cannot give you the article here, begin again in another Court;" "but," the suitor says, "this is a Court of Justice, render to me my due." "No, you cannot have (e. g.) equitable justice here, go next door." We are aware that the argument pushed would lead to a larger measure of relief than Mr. Mowat proposes, but that in good time; the clause is a step in the right direction. Sections 32 to 34 are provisions in the same connection.

Sections 11 to 15 relate mostly to procedure, and we shall not now pause to examine them.

The 16th, 17th and 18th sections relate to the mode of trial of issues of fact and will not very materially alter the present law. In our judgment they do