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LEGAL PROCEDURE IN ENGLAND.

On the 7th of January last, the Lord Chancellor addressed to the Lord Chief Justice of England a letter, requesting him to preside over the committee "to consider and report upon any changes which it may be desirable now to make in the practice, pleading, or procedure of the High Court of Justice in connection with or consequential on the union of the Queen's Bench, Common Pleas, and Exchequer Divisions (if such union shall take place under the Order in Council of December 16, 1880) or otherwise, and also how far it may be expedient to limit in any respect any rights of appeal at present existing;" and upon obtaining the Lord Chief Justice's consent, requested the late Lord Justice James, Sir James Hannen, Mr. Justice Bowen, Lord Shand, the Attorney-General, the Solicitor General, Mr. (now Mr. Justice) J. C. Mathew, Mr. R. T. Reid, Mr. John Hollams, and Mr. Charles Harrison to serve upon the committee. The Lord Chancellor added that such of the recommendations which the committee might make as could be carried into effect by rules must, of course, be submitted at the proper time to the Committee of Judges appointed to make rules under the Judicature Acts.

In compliance with the Lord Chancellor's request, the committee, so constituted, proceeded to consider in numerous sittings the matters referred to them, and in the month of May presented to the Lord Chancellor a report, unanimously signed.

The Lord Chancellor, desiring to have the advantage of the confidential opinions of those learned judges who were not members of the committee to assist him in his further consideration of the subject, circulated the report with that view among their lordships. Before all the observations were received, the members of the committee intimated that it is desirable the terms of their report should be generally known to the legal profession and the public. It has been published accordingly.

There are several points in the report which are of interest here. Although much has been done to simplify procedure in England within the last forty years, and especially by the recent Judicature Acts, the committee are prepared to go much further in sweeping away technicalities. Firstly, they would do away with pleadings wherever it is possible to dispense with them. They see no necessity for a declaration even, unless the case is really going to be fought out. We quote from the report:—

"The committee had, in the first place, to consider how far it was desirable, in order to expedite the proceedings in an action, to combine with the writ of summons a statement of the plaintiff's demand to which the defendant, when he appeared, might be required to put in his answer.

The committee directed an examination to be made of the judicial statistics for 1879, with the view to the solution of this and the other questions relating to procedure submitted for their consideration, and the following results have been arrived at:—

"In the year 1879 there were issued in the divisions of the High Court in London—writs' 59,659. Of the actions thus commenced, there were settled without appearance, 15,372—*i.e.*, 25·68 per cent.; by judgment by default, 16,967—*i.e.*, 28·34 per cent.; by judgment under Order XIV., 4,251—*i.e.*, 7·10 per cent.; total of practically undefended causes, 36,590—*i.e.*, 61·12 per cent.; cases unaccounted for, and therefore presumably settled or abandoned after some litigation, 20,804—*i.e.*, 35·10 per cent. The remaining cases were thus accounted for:—Decided in Court—for plaintiffs, 1,232; for defendants, 521; before Masters and official referees, 512—total, 2,265;—that is, 3·78 of the actions brought.

"From these figures it seemed clear that the writ in its present form was effective in bringing defendants to a settlement at a small cost, and that it was unadvisable to make any alteration by uniting with it a plaint or other statement of the plaintiff's cause of action, which would add to the expense of the first step in the litigation."

In the next place the committee considered how far it was possible, in those cases in which litigation was continued after the appearance of the defendant, to adopt a procedure (1) for ascertaining the cases in which there is a real controversy between the parties; (2) for diminishing the cost of litigation in cases which are fought out to judgment. They arrived at the following conclusions:—

"The committee is of opinion that, as a general rule, the questions in controversy between litigants may be ascertained without pleadings.