the extent and nature of the Acts to be repealed, and unless anybody waded through the whole of this volume he would find it impossible to understand the exact nature of the vast alteration in our whole system of law which these rules proposed to effect. It was not too much to say that by these rules our whole existing code of legal procedure, dating from 1852 downwards, was to be repealed. This was a very important matter, because every change in our legal procedure involved vast expense to the suitor, and, indeed, Baron Martin had once observed that every set of new Rules of Procedure cost the country some three million sterling in litigation.

"The way in which the alteration of the course of procedure was effected was unfortunate, because in a great number of instances where an existing rule was repealed it was re-enacted with what appeared at first sight to be a mere verbal alteration, which, however, on careful examination turned out to be an important and material change, and which, in some instances, gave an entirely new effect to the rule. . . ." Deprecating the haste with which they had been pressed upon the House late in the Session, Sir H. Giffard continued: "He was receiving letters every day from all parts of the country, pointing out difficulties that would arise under these rules, and it was because he could not bring these details before the House at this period of the Session that he asked that the consideration of the rules should be postponed until next Session. The whole tone of these rules tended to make Her Majesty's judges absolute despots in the Courts of Law. . . Doubtless, it had been said that it was the duty of a good judge to increase and enlarge his jurisdiction, but in his humble opinion that was a very immoral view to take of the duty of a judge. Certainly, in the present instance the judges had done their best to increase and enlarge their jurisdiction, because in almost every case in which a question could arise under these rules the judge was to have the power of deciding it summarily. In these circumstances how was that independence of the Bar, which it was so necessary for the good of the public at large should be maintained, to be preserved if counsel were to be met at every turn by the exercise of the discretion of the judge, who was to have the power in every case of punishing by the imposition of costs anything of which he did not approve? On every point, with regard to which parties had hitherto been entitled to an option, the opinion of a judge was now to be absolute. With all deference to these learned personages, he must point out that after all they were only mortal men, and as such, were liable to error in some cases, and that it would therefore be better for themselves as well as for the public that they should not have this despotic power conferred upon them. He would only refer to one example of what the judges had done in the exercise of their power of making those rules. By an Act known as Sir H. Keating's Act, no defence was permitted to be raised in certain circumstances in an action upon a bill of exchange, and the judges by these rules had by a stroke of the pen simply repealed that Act. They did not say in terms that the Act should be repealed—that would have been too scandalous, but they said that after the publication of these rules no writ under Sir H. Keating's Act should issue. He did not think that under the powers conferred upon them by the Act they were authorized to repeal Acts of Parliament in this summary fashion. What would have been thought if they had taken upon themselves to order that after the publication of these rules no writ of *habeas corpus* should be issued? And yet if they had the power to make a rule in one case they equally had the power to make it in the other . . . . No secret was made of the dislike of the judges for trial by jury. He had often expressed his preference for the verdict of a good special jury to the finding of the judge. No doubt barristers who practised on what used to be called the other side of Westminster Hall might take a different view. The judges had no power to interfere with the verdict of a jury, and the tendency to amplify the jurisdiction of the judge in that respect had of late received a check. It was a very dangerous thing to leave it to the discretion of a judge what cases he should try himself, and what cases he should remit to a jury. The only exceptions to that discretion were specified in Order 36, Rule 2, and they were actions for slander, libel, false imprisonment, sedition, and breach of promise of marriage. In these cases either plaintiff or defendant might, by notice to the other side, require the trial to be before a jury. In another class of actions, on special application, a jury trial might be ordered. That was a most undesirable system, and unless people were alive to