law) we presume some one will be found to fill the position. But the time has gone by unfortunately, thanks, we suppose, to a spirit of false economy or some imagined political necessity, when the Government of the day can command, at the present miserable pittance given to judges, the best talent at the Bar for seats on the Bench.

Section 6 of the above Act is of rather a surprising character, and the more so as the Bill is introduced by the Attorney-General. The section reads as follows:—

"When in any civil suit or any proceeding in regard to which this Legislature has authority to enact, as hereinafter mentioned, the constitutional validity of any Act of the Parliament of Canada or of the Legislature of Ontario comes into question, the same shall not be adjudged to be invalid *until after notice thereof has been served on the Minister of Justice and the Attorney-General of Ontario*, or at their office respectively."

This notice is to give full information as to the suit, and when it is to be heard, and is to be served six days before the argument, and the Attorney-General is to be entitled then to be heard as of right.

With all due deference it appears to us that there is some question as to the constitutionality of the above enactment, while there seems no question at all as to its practical expediency. No doubt it will be said that it relates merely to a matter of practice, and so is *intra vires*; but what power has the Local Legislature to enact that a judge shall not declare an Act *ultra vires*—say a Dominion Statute—simply because one of the parties has not given a certain notice? What is the Court to do if the question of the validity of an Act comes up in a case and no such notice has been served? Is the invalid Act in such case to be acted upon as though it were valid? If it is *ultra vires* it is illegal, and is as though it had never been passed, yet this Bill apparently contemplates such an Act being enforced by the judges in such cases as we have supposed. If, on the other hand, this is not intended, is the Court, in a case in which the question of the validity of an Act comes before it, (as it may often do incidentally and in an unforseen manner,) to forthwith adjourn the further hearing until the required notice is served? What if such a question arises at *nisi prius?* The directions of the judge to the jury may often be greatly affected by the question of the validity or invalidity of a Statute arising in an action. Supposing, in such case, no notice had been served, is the trial to be forthwith adjourned, the witnesses and parties detained, and costs indefinitely increased, in order that the six-days notice may be served?

We admit, if it were possible or could be so arranged, that it would be very desirable that the Crown should be represented on any argument as to the "constitutional validity" of an Act of either Legislature, but we confess we see no way to get over such difficulties as we have suggested. It would of course be possible to provide that the Crown should pay any extra expense incurred, but that is only a minor detail. We trust this measure will not be passed without full consideration.

RULES OF COURT.

There is one matter, in which it may be doubted whether the changes wrought by the Judicature Act have proved beneficial, and that is with regard to the power to frame Rules of practice.

Prior to the Act, the Judges of the Superior Courts of law, or any four of them, of whom the Chief Justices must have been two, had power to frame rûles of practice for the Common Law Courts, and the Court of Chancery had like power with regard to making rules of practice for that Court.

Of course this system which in practice had worked excellently before the Act, could not be suffered to continue after the practice of these Courts had been assimilated. To have continued it, would inevitably have led very