

THE ADMINISTRATION OF JUSTICE ACT, 1873.

observed in the Courts of this Province. Sections 4 to 7 of the present bill cut away the technical ground upon which the decision in *Neave v. Avery* rests, and give affirmatively the right to set forth by way of equitable plea the facts which entitle the defendant on equitable grounds to retain the possession, and they give the plaintiff the right to reply thereto on equitable grounds,—and as a consequence the right to demur to such defence and replication is also given in express terms.

In Ireland, the course of practice has been quite opposed to the rule laid down in *Neave v. Avery*. There it was held that as the defendant could set up a legal defence by way of plea in ejectment, he might do the same in respect of an equitable defence by virtue of the provisions of the Common Law Procedure Act of 1856, applicable to Ireland: *Turner v. McAuley*, 6 Ir. Com. Law Rep., 245 (1856). It was also held in the same case that the proper way of raising objections to the validity of such plea was by demurrer. Since then equitable defences have been pleaded in Ireland in actions of ejectment, with such restrictions only as the judges (following the English authorities) have chosen to impose upon themselves in requiring the facts to be such that an absolute and unconditional injunction might be obtained thereon in a Court of Equity: *Cochrane v. Camack*, 7 Ir. Com. Law Rep., 10; *Deering v. Lawler*, *ib.* 333. As we have above remarked, the provisions of the present Act release the Courts from their self-imposed fetters in this respect, and restore them to that freedom of action which we are persuaded was intended when the legislature first gave the right to plead equitable defences in common law suits.

It is, of course, to be observed that there may be cases of equitable pleas and replications in ejectment which could be

objected to under the 119th section of the Common Law Procedure Act (C. S. U. C., cap. 22), as tending to embarrass or delay. The application under this section is not by way of demurrer, but upon motion to have the objectionable plea reformed or set aside. A similar practice obtains in Ireland as to these equitable pleas: *Clarke v. Reilly*, Ir. R., 2 C. L., 422.

ADMINISTRATION OF JUSTICE
IN TORONTO.

There has been a rather remarkable block in the civil business at the recent Assizes for the County of York. The Court sat for one month, during which period some forty indictments were tried, twenty-eight civil causes disposed of, and eighty-two records made remanets.

It is difficult to estimate the annoyance, inconvenience, loss of time, loss of money and possible loss of property which is represented by this delay in business; it must necessarily be very great.

The difficulty is not, however, likely to occur again, at least for some time to come. The wisdom of some of the provisions of the Act for the administration of justice which affect this question are now fully apparent. The additional sittings of the County Court and General Sessions of the Peace in the County of York will dispose of much of the business which would otherwise (as has been the case this year) come before the Judge of Assize. The same remark is applicable, though to a limited extent, to the additional assize provided for the County of York between Easter Term and the first of July—we say to a limited extent—for the time during which that Court can sit will generally be very short. This Assize is also subject to the great objection of sitting at a period of the year during which it