

OMISSIONS IN THE ADMINISTRATION OF JUSTICE ACT.

candidates and their friends, hitherto unknown, for we find that, so far, out of eighty odd elections more than thirty are protested on the ground of bribery, corruption and "undue influence,"—(whatever that may mean). Some few of the petitioners claim the seat on a scrutiny, but the frightful expense attending such a course prevents many attempts of that kind. The practical working of the statutes shows clearly that a complete revision is absolutely necessary. For example, the present system of giving particulars is simply a provision for notifying the briber and the bribee to take a trip across the border for a few weeks, either for the sake of their health or at the call of urgent private business. Summary powers of preliminary and interlocutory examinations both of candidates and witnesses, so as to catch and cage the evidence, from day to day, must be given before the Act will be worth the paper it is written on. The name of the other amendments necessary is legion, but these we have not now space to discuss. We are inclined to think that many of these petitions will not come to a hearing. If they do, the prospects of the Bench and Bar for long vacation are somewhat lugubrious.

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All statutes involving extensive or even considerable alterations of the law are tentative in character. There has been a demand for reform, and the reformer sometimes overshoots the mark, sometimes falls short of it. Statutes for the "amendment of the law" as a rule require amendment themselves, in order to approximate the ideal and the actual benefit to be derived therefrom. It is but rarely, if ever, that such acts issue from the brain of the legislator in practical perfection: time and use develop the neces-

sity for many applications of the amending hand. Sheridan ridiculed the process by which the full measure of ultimate benefit is evolved from statute law, by a parody on "The house that Jack built." First, he says, there comes in a bill imposing a tax; and then comes in a bill to amend the bill that imposed the tax; and then comes in a bill to explain the bill that amended the bill to impose the tax; next a bill to remedy the defects of the bill that explained the bill, that amended the bill, that imposed the tax; and so on *ad infinitum*. But underlying this *persiflage* are the substantial truths that advantageous changes in the law are arrived at only by degrees, and that frequent short-comings almost necessarily precede satisfactory legislation.

It is in no spirit of fault-finding or captiousness that we proceed to point out some omissions and defects in the Administration of Justice Act of 1873. We have hitherto spoken of that Act as we think it deserves, in the language of eulogy, as being a substantial advance in so adjusting the machinery of the several courts that the relief any suitor is entitled to claim can be meted out to him without unnecessary delay or expense. But in some respects we are inclined to think that the Act might have gone further, with benefit both to the courts and the suitors.

In particular, the state of the law in regard to actions of ejectment, is at present very unsatisfactory. This form of action is full of anomalies which it would be well to remove. Until the recent Act 36 Vict. cap. 14, (which should have been incorporated with the Act for the Administration of Justice) no costs could be taxed in undefended actions of ejectment, unless by the circuitous process of proceeding to recover them in an action for mesne profits: *Steen v. Steen*, 21 U. C. Q. B. 454. To counterbalance this peculiarity, we find that the courts