

## LEGAL LEGISLATION.

with a defence to remain in court subject to order, unless the plaintiff accept it in satisfaction, is reasonable. We think the English Rules allowing a payment into court with a defence denying the plaintiff's right of action should also be introduced.

Passing over some other proposed changes of a minor character, we see that it is proposed that execution may issue forthwith, upon a judgment by default. This is intended to do away with the stay of execution for eight days after the last day for appearance which the Common Law Procedure Act provided, and which was perpetuated by the Judicature Act. The time between service of the writ and execution would thus be reduced from eighteen days, to ten days. We are not sure that a provision which, on the whole, has worked fairly well for over thirty years should be rashly disturbed. It is not in the best interests of the community that legal procedure should be of a too summary character. The fact that within ten days after a writ has been served on you, you may have a sheriff's bailiff in your house is not a pleasant thing to contemplate from the debtor's point of view, and even debtors appear entitled to some little consideration.

The procedure against absconding debtors is proposed to be brought into harmony with the ordinary procedure in an action, and we presume the same principle will be extended to replevin, though the committee say nothing on this point.

The committee have made a proposal that to a committee composed of the Chancellor, Chief Justice and Attorney-General, should hereafter be committed the task of rule-making. The experience gained since the passing of the Judicature Act has abundantly demonstrated that the present method is unworkable in prac-

tice. We are not sure, however, that the fact of a man being a Chief Justice or Chancellor or Attorney-General is an indubitably sufficient demonstration of his qualification to make rules of practice.

The committee also suggest that means should be devised for definitely determining before a case is called for trial, whether it is to be tried with, or without a jury. This they think should be settled on a motion to strike out, or add a jury notice, and not left to be settled by the judge at the trial—and in this we think they are right.

The committee think means should be devised for the more rapid obtaining of copies of evidence. Perhaps Mr. Edison's phonograph may ere long be so perfected that the evidence can be ground in at one end, and ground out at the other—in the meantime we suppose the only solution of the difficulty is the employment of more reporters.

We have touched only on the more salient points in the committee's proposals, and shall look for the proposed code with some interest, only hoping that it may not become law without careful consideration of its provisions and an earnest endeavour to make them as complete as possible, so that when it does become law we may "rest and be thankful" for at least another generation without any more tinkering.