

ing so much about articulations of fact. Pleadings are really nothing more, or ought to be nothing more than articulations of fact. I do not insist on the system exploded in England, though I believe it to be the best, but I do say that what of technicality in pleading is abandoned, must be paid for in looseness of evidence, and consequent liability to great delay and expense.

The proposition to limit the scope of pleadings by a rigorous system of taxation, has often been suggested, and if carried out in detail, probably would make litigants pause before putting forth extravagant pretensions or denying facts they know to be true. This would be a great point gained, but its execution, with untechnical pleadings is almost impossible, and it would require a staff of taxing masters to carry it out, even under the most perfect system of pleading. It belongs to a system of taxation by items, wholly different in principle from the bill of costs, as known here. As matters stand, the judges do sometimes give special orders with regard to taxation, but, I admit, this is only done in very extreme cases, and its application is too fitful to be satisfactory.

The objections to the old *enquête* system are generally admitted, but I don't think the Commissioner fully appreciates the evil or its cure. The fault of taking evidence at *enquête* sittings consists in this, that the judge does not know the case, and consequently he can exercise no efficient control over the evidence. Then, if he made the necessary effort to understand the case, it would be labour almost always wasted, for it is the merest chance that he hears the case on the merits. Sir George Cartier saw this, and he applied the proper remedy. He made it the duty of the judge to take the evidence and hear the case, but unfortunately he made it optional with the parties to go on under the old system.

Routine, as usual, won the day, and finally Sir George gave way. The only effective mode is to inscribe the cases on a Roll exactly as if they were to be heard by a jury and let the judge be seized with each case from the beginning, let him take the evidence (not necessarily with his own