

## ADMINISTRATION OF JUSTICE.

detriment of the suitors proper in the Superior Courts.

There will be some trouble in practically carrying out the theory laid down in section 46. A difficulty will at once arise as to how a taxing officer in one Court is to tell what the costs of the suit would have been if brought in another Court, having entirely different machinery. This is a matter which will require consideration and amendment.

The 47th and 48th sections meet our unqualified approval. "The advancement of justice, and the prevention and redress of fraud," in other words, substantial justice, ought to be paramount to mere technical rules, and the very ample powers of amendment here given will greatly aid the Courts in the administration of justice.

The 54th and 55th sections put a very important jurisdiction upon a proper footing. The power to try criminal cases by a judge without a jury was conferred by an Act of Canada introduced by the late Hon. J. Sandfield Macdonald, and that it has worked well and satisfactorily, we shall on a future occasion show. The Dominion Parliament could only confer the jurisdiction. Very nearly what is proposed to be done by this Bill, we happen to know that the first Premier of Ontario intended to submit to the Legislature. We do not by this remark desire to detract from the credit due to Mr. Mowat as the framer of this provision or to suggest that he was aware of Mr. Macdonald's intention: far from it,—but it could not fail to engage his intention that what at first was regarded as a doubtful experiment had proved a great success, as shewn by the very large number of persons charged with crime who accepted the jurisdiction, the proportion outside of the cities being over four-fifths of the whole number of persons committed for trial. The proposed enactment will so far as the Legislature of Ontario can do it remedy the

main imperfections, but further legislation in the Dominion will be required to complete the design and give the tribunals *all* the powers and facilities that a Criminal Court should possess.

We have given all our available space to this brief notice of the leading provisions in this most important Bill, and whatever difference of opinion may prevail as to some of the provisions—the object the Bill aims at, the moderate range and character of the proposed enactments, and the able and careful manner in which it is framed, claim for it, we repeat, a grave and candid consideration.

We would in conclusion suggest that the Act should not come into force for some time to be limited by it. This would give time for practitioners to see it and understand it before being called upon to act under its provisions.

The Bill reads as follows:—

Her Majesty, &c., enacts as follows:—

## LAW AND EQUITY COURTS.

1. The courts of law and equity shall be, as far as possible, auxiliary to one another respectively, for the more speedy convenient and inexpensive administration of justice in every case.

## EQUITABLE POWERS OF LAW COURTS.

2. Any person having a purely money demand may proceed for the recovery thereof by an action at law, although the plaintiff's right to recover may be an equitable one only, and no plea, demurrer or other objection on the ground that the plaintiff's proper remedy is in the Court of Chancery, shall be allowed in such action: but the court shall have the discretionary power hereinafter mentioned to transfer equity matters to the Court of Chancery when the ends of justice so require.

3. Any party to an action at law may, by plea or any subsequent pleading, set up facts which entitle him to relief upon equitable grounds, although such facts may not entitle such party to an absolute, perpetual and unconditional injunction in a court of equity, and although the opposite party may be entitled to some substantive relief as against the party setting up such facts: and such plea or other subsequent pleading shall begin with a statement that it is on equitable grounds.