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Barrie, U. C.

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THE LAW JOURNAL.

AUGUST, 1856.

LAW REFORM.—QUESTION OF CONSTRUCTION.

The Acts of last Session regulating and simplifying the practice and proceedings of the Courts of Law are by far the most important Statutes on the subject of Procedure ever passed by the Canadian Legislature. A mighty change has been effected, a great revolution brought about, and amidst the noise of a noisy Session, these Statutes have almost without discussion been ushered into life. The Student will no longer require to wade through a mass of complicated intricacies; to read the many thousand cases, often conflicting, seldom clear, that formed a clue to the subtle labyrinth of Practice. A practice venerable indeed, but bearing all the marks of senility upon it—refined truly in its dogmatic elaborations, but in its artificial and vermicular details confounding the means with the end, the forms of Justice with Justice itself. The Lawyer will find relief from the festering grievances of pettifogging technicality; law, the Minister of Justice, he has often seen perverted by the unscrupulous into an engine of mischief, and yet been helpless to prevent the wrong, and often truth and justice entangled and borne down by the very means designed for their succour and support. Yes, a great revolution has been effected; the suitor for justice

need no longer travel a blazed path beset with thorns, traps and pitfalls; the road has been cleared, fenced, and rendered safe.

Acts of Parliament often bear a lie on their face; the flourish of trumpets in a preamble is at all events seldom sustained by the enactments it introduces. It is *not* so with the acts to which we refer; they are, as the preamble declares, "to simplify and expedite" the proceedings of the Courts, and with that declaration the enactments are consistent. What is justice? to render to every one his due! and to Mr. Attorney General Macdonald, the profession and the public must award well deserved praise for these most meritorious measures.

We have read both Acts with care. Mr. Macdonald has not attempted to "doctor" this, to patch that Rule of Practice, to repeal a bit of Law here, to graft on something new there, in our system of procedure; he has approached his subject not as a "niggler" and a quack, but scientifically and searchingly as became his position. He radically remodels the whole structure, effecting immense improvements in the administration of the law. There was no loud popular cry to force on these measures; they appear to have been spontaneously taken up by their author, under the obligations every one owes his own profession; and it is gratifying to find that amidst the turmoil of political life, the head of the Bar has not been unfaithful to the cause of Science, or cold to its claims.

Nor is it the least favourable feature in the new laws that they adopt *verbatim* such of the clauses in the English Common Law Procedure Acts as are applicable to our condition and legal institutions. Where sections have been changed, the alterations have been made as sparingly as possible, and with much judgment: we will therefore have all the benefit which can be derived from the judicial construction these acts have undergone, and will continue to receive, in England.

The sections, based on the old practice, bring the subjects embraced into a clear and orderly shape; the law respecting absconding debtors (wherein, by the way, we have taken the lead of England in Law Reform) is clearly traced out and the several enactments well consolidated: in many other particulars, also, improvements have been