

LEGAL PROCEDURE IN ENGLAND.

for the existing practice of requiring a separate summons for each separate matter is to be discontinued; and upon any summons by either party, it shall be competent for the Judge or Master to make any order which may seem just at the instance of the other party. And any application which might have been made upon the summons for directions shall, if granted upon any subsequent application, be granted at the costs of the party so subsequently applying, unless the Master or Judge otherwise direct. Their next resolution is that discovery and interrogatories shall be limited to such discovery of documents or facts relating to any part of the matter in dispute as the Master shall order. The costs, unless otherwise ordered, shall be borne in the first instance by the party asking for discovery or interrogatories, and shall be allowed as part of his costs of suit, where, and where only such discovery or interrogatories shall appear to have been reasonably and usefully asked for. And with a view to diminishing the number of interlocutory appeals in matters of procedure, they resolve that the appeal from a Master shall be to a Judge in Chambers; and the appeal from a decision of a Judge at Chambers shall be to the Court in *Banc*, such appeal only to take place in cases of special difficulty and importance, when allowed by the Judge giving the decision, or with special leave of such Court. All motions by way of appeal from inferior Courts, applications to set aside awards, for attachments, *mandamus*, *quo warranto*, *scire facias*, to answer the matters of affidavits, to strike solicitors of the rolls, and for criminal informations are to be disposed of on notice of motion without any rule *nisi*.

"In the next place, they make the important recommendation that the mode of trial shall be by a Judge without a jury, but, on the summons for directions, on the application of either party, an order shall be made that the cause be tried by a jury, if it shall appear that the questions involved can conveniently be so tried; provided always that in the following cases the right of either party to a trial by jury shall be absolute—libel, slander, seduction, false imprisonment, malicious prosecution, breach of promise of marriage. And again, if it be made to appear to the Judge, at or after the trial of any case, that one of the parties was, a reasonable time before the trial, required in writing to admit any specific fact, and without

reasonable cause refused to do so, the Judge should either disallow to such party, or order him to pay (as the case may be) the costs incurred in consequence of such refusal. * * And as to new trials it is resolved that, after the trial of any cause before a Judge and jury, the Judge may, upon application, certify that he is dissatisfied with the verdict, in which case a new trial shall take place unless the Court shall otherwise order. Neither party shall have a right to a new trial on the ground that some question has not been left to the jury which the Judge at the trial has not been asked to leave to the jury. The Court shall have power in such cases either to direct a new trial, or, with the view of saving a further trial, to draw all inferences of fact, or take further evidence, or direct inquiry. All applications for a new trial shall be by notice of motion, stating the grounds of application to the Court. Such applications shall be disposed of on the motion, without any rule *nisi*. And as to appeals the Committee resolve that all such from a Judge without a jury shall be to the Court of Appeal; and also where a Judge has directed a verdict for plaintiff or defendant; and the Court of Appeal shall thereupon have the power to dispose of the whole case. All applications for a new trial in jury causes shall go to a Court in *Banc*, consisting of three Judges (of whom the Judge who tried the case shall not be one); the decision of this Court shall be final, except with their leave, or in case of difference of opinion, or where the subject matter of appeal exceeds £500. All appeals from the Court in *Banc* shall be to a Court of Appeal of not less than five Judges. And where a compulsory arbitration has been ordered, an appeal from the decision of the arbitrator shall be allowed on a question of law to the Court in *Banc*, whose decision shall be final except with their leave, or in case of difference of opinion, or where the subject matter of appeal exceeds £500.

"With respect to costs, the Committee recommend that there shall be a uniform scale and system in contentious business in all the divisions of the High Court."

Finally we may note that the Committee specially recommend that there shall be, as far as practicable, a uniform system of procedure in all the divisions, so that there shall be no inducement to bring actions, not