

ELECTIVE JUDICIARY—ACT FOR QUIETING TITLES.

ELECTIVE JUDICIARY.

The State of New York was, we believe, the first to open the judicial office to the choice of the people by annual election. It is now proposed by a new constitution, which is shortly to be submitted to the direct vote of the people, to provide for the establishment of a Court of Appeal, to consist of seven judges holding their office for fourteen years. This would be a great improvement, but it is further proposed, after 1873, to vest the appointments of these judges in the Governor of the State, to be held during good behaviour. The better class of the profession and order-loving citizens are anxiously looking forward to a return to the old English system, by which alone, as is remarked in a leading American law periodical, "the bench can permanently retain its independence or its respectability." The evils resulting from the present system and the corruptions of the judiciary of New York were some time ago exposed in the most scorching way by the *American Law Review*, in language which seemed to despair of any improvement. When, however, a nation, boastful and bigoted though it be, begins to acknowledge that it has made mistakes, there is still it may be hoped a chance of improvement.

ACT FOR QUIETING TITLES.

We have already given our readers a sketch of the proofs of title required by the Referees under the above Act, and which are spoken of more at length in Mr. Turner's book. It will be useful to many of our readers, to republish the preliminary requirements of the Referees printed by them as instructions for those taking advantage of the Act. This will be found very handy for constant reference by practitioners and clerk, as well when taking proceedings to quiet titles, as in the ordinary routine of searching a title.

The instructions are as follows:—

- 1.—The affidavit of the petitioner under the 6th section of the Act. (For form, see Turner on Titles, 58.) The affidavit should also state whether the petitioner is married or not.
- 2.—The certificate of his Counsel or Solicitor, under the 8th section of the Act.
- 3.—The County Registrar's Certificate of the state of the title up to the time of registering a certificate of the petition being filed.

4.—All deeds and evidences of title in the petitioner's possession or power. (See Act for Quieting Titles, sec. 5, sub-sec. 1.)

5.—If the petitioner cannot produce all the deeds relating to the land, under which he derives title, he must procure and produce:—

(a.) Certified copies of the memorials (with affidavits of execution) of all other registered instruments affecting the title.

(b.) Affidavits of diligent search for the originals of all deeds to which these memorials relate, and of all other deeds relating to the title which are not produced.

(c.) Proofs of contents of the non-produced deeds. Those of which there are memorials in the short form in use before the late Registry Act should be shown to have contained no trust, limitation, condition, exception or qualification not mentioned in the memorial.

6.—If any of the deeds have no receipt for consideration endorsed, there must further be produced some proof of payment of the consideration.

7.—If there is no release of dower by the wife of a former owner, shew that he was unmarried when he conveyed, or that his wife is dead; otherwise the Certificate of Title must be subject to her dower.

8.—Affidavits are required showing that possession has always accompanied the title under which the petitioner claims. (See Consolidated Order, 501.) Also affidavits showing who is now in occupation, and under what title or claim of title.

9.—Sheriff's certificate that the property is not affected by any execution, sale under execution, or tax sale. (See Turner on Titles, 7, 63, and 64.)

10.—Treasurer's certificate that there are no taxes in arrear and that there has been no sale for taxes.

11.—Collector's receipt for any taxes that are not shewn by the Treasurer's Certificate to have been paid.

12.—Certificate or affidavit that there are no Crown debts affecting the property. (See Con. Stat. U. C. c. 5; 29 & 30 Vic. c. 43.)

13.—A concise statement of any other facts necessary to make out the title and affidavits or other evidence to prove the same.

14.—Schedule of the particulars so produced.