

As to the simplifying and cheapening the procedure of the Supreme Court, I believe the Judges are agreed that, before we attempt a sweeping change in our own *Regulæ Generales*, it would be desirable that we should see the working of the system which is being adopted in the High Court of Judicature in England, a system framed with the avowed object of effecting that fusion of law and equity towards which New Zealand, however tentatively and with but partial effect, yet in fact has led the way. We should be glad also to know and understand what is the character and efficacy of the change which it has been said has been recently enacted in Victoria. Referring to the Supreme Court of Judicature Act of England, there probably will be found no difficulty in adopting meanwhile some of the provisions and Rules of Procedure under that Act, and the Schedule thereto. The system of compulsory reference to official referees, and the calling in the aid of assessors in causes that involve mercantile or scientific questions of either novelty or difficulty,—these provisions may possibly be found applicable in heavy and important cases, where large interests are at stake; but this only provided the colony is prepared to pay for the aid of properly qualified referees and assessors, either by fees to be imposed on the suitors, or from the public revenue. Of course the system is less easy of application where the Supreme Court is located in a series of small communities; and I am bound to admit that I found practical difficulties in the way of employing mercantile assessors under “The Debtors and Creditors Act, 1862,” which, however, may not be found insuperable in causes raised *inter partes*. Some, also, of the Rules of Procedure which are scheduled to the Imperial Act may perhaps be found available in this Supreme Court; e.g. the special indorsement on the writ of summons in lieu of a formal declaration (perhaps), unless and until the defendant shall himself demand a formal declaration of the plaintiff’s cause of action,—the enabling a Judge to dispense with all but necessary parties to the act in in cases where he does not deem their joinder to be indispensable, as also to compel the parties to such fair disclosures as may avoid the multiplication of issues; such additional rules of practice as may enable a defendant to avail himself in the same action of an equitable counter-claim connected with the plaintiff’s cause of action as effectually as if he were himself plaintiff in a cross action for specific relief. Perhaps, before the next Session of the General Assembly, the Judges may be in a position to supplement the present *Regulæ Generales* with rules to provide for such of these objects, and others of a kindred nature, as may be deemed best, and as may be within their powers, and may also report to the Government upon such improvements as may require special legislation. But it must be remembered that we see at present but the skeleton of that great body of practice by which the High Court of Judicature will seek to work out its scheme of procedure; while it is not unreasonable for us to hold that if we wait until that scheme is in operation before we attempt any sweeping changes in our own procedure, we may find a safe and useful guide in the wisdom of the British Parliament and Judicature itself.

Meanwhile, it must not be forgotten that the means are already provided, both by Statute and by Rules of Procedure, for a more speedy and less extensive determination of litigated rights, if the litigant spirit of parties would allow themselves to adopt them, under the present scheme of procedure in the Supreme Court. And it may possibly be found practicable, by giving fresh powers to the Judge, to induce or compel parties in some cases to apply those means for raising and determining issues, whether of law or of fact, as the case may be.

Further, if it should be deemed advisable that the Judges in the Supreme Court should try certain classes of actions under the practice now established in the District Courts, I need not assure you that it will be our duty to give effect to the will of the Legislature, as may be declared for that purpose.

I am, however, fully persuaded that in many suits, especially for equitable relief, that practice will be found ineffectual; and that, whether the action be commenced by way of plaint and summons or by writ and declaration, cases will frequently occur in which the Court will be unable to ascertain and determine the rights of different parties to an action, so as to do complete justice between them, without calling in aid a practice and procedure of a character like to, although it may be an improvement upon that of which the skeleton is traced in those rules of the Supreme Court practice which immediately concern equitable relief; and I believe the Judges will agree that they find the Common Law rules of pleading and practice materially insufficient for the purposes of equitable relief.

It was found impossible for the Judges to debate and to arrive at any common conclusion upon the above complicated subjects at their recent sitting of the Court of Appeal, engaged as they were in the actual business of the Court up to within two or three hours of the time when two of their number were obliged to hasten, myself included, to their judicial districts. But we are anxious to assist the Government to the utmost of our power in the work of law improvement. The subjects themselves have, I presume, been under the special consideration of the Minister of Justice; and perhaps that Minister may be willing to inform the Judges somewhat more specifically what objects the Government have immediately in view, and what are the means, generally, by which it is suggested that those objects may be attained.

You were good enough to mention also the matter of serving notices and processes by means of the electric telegraph. This is matter of detail upon which I should prefer to consult one or two experienced members of the profession upon the difficulties which they encounter, before I presumed to offer any suggestions thereon.

I have, &c.,

GEORGE ALFRED ARNEY,

Chief Justice.

The Hon. the Premier, Wellington.

No. 2.

His Honor Mr. Justice JOHNSTON to the Hon. the COLONIAL SECRETARY.

(No. 153.)

SIR,—

Judges’ Chambers, Wellington, 4th December, 1873.

I have the honor to inform you that I have just received a communication from His Honor the