

He said, however, that the most respectable authorities had preferred a trial by Judges to a trial by Jury in conventional matters; it was in criminal cases, and damages that Juries were justly celebrated. The Hon. Member then stated in great detail the course which the actions, commonly instituted by a farmer, a House owner, and a Merchant, commonly took in the Courts from term to term, and instanced the case of a person who had got wrongful possession of a Seigneurie, and who, for about £25 a year, in law expences, assured himself of the annual revenue of some hundred pounds. He said, that in England the Judges might get through a great deal of business in a short time; a Jury trial only lasted one day; of hundreds of verdicts, only a few were moved to be set aside; all the Judges had to do, was to apply the law to be executed. Here the Judges had to enter into all the details of the cause, from beginning to end. It was impossible, he said, to get through the business in terms of twenty days. But it seemed that the Judges by the new Bill were to give judgement out of term, a provision which he viewed as most extraordinary; the least important part of the business must be in term; the most solemn part, that requiring the greatest publicity, was to be done in a corner. The inferior Courts proposed by the Bill were still more objectionable. These Courts were nearly the same as at present, but the number of Judges was diminished. At present it was notorious, that they could not get through with the business of the term. He thought the Circuit Courts ought to have a concurrent jurisdiction with the District Courts, and the Circuits be fixed by the Legislature. The Court of Appeals, he remarked, was one of the most important parts of the Bill; he doubted if this Court could be confided with safety to three or four persons. Mischiefs, he seemed to think, might result from the possibility of having the opinion of so few persons before-hand. He should prefer a more numerous body, for so important a tribunal. In conclusion, he objected to Judges who had not heard the cause pleaded before them, being consulted by the Judges who had. The Speaker, after several pertinent observations, in which he mainly concurred with Mr. Viger, entered into the subject of the Court of Appeals, which, he said, was every thing in a good judiciary, as it regulated the whole machine. Ours, as it existed, was a great co-operating cause of the abuses which subsisted. It was composed of the Judges of two separate and independent Law Courts, and a number of Executive Councillors, who, whatever might be their capacity in other respects, were not qualified to decide on difficult questions of law. He could not approve of the substitute which was offered for the Court of Appeals, and thought it might be possible to form a proper Court of Appeals in the country; such a body, perhaps, ought not to consist entirely of lawyers; those at least who were not lawyers ought to be persons of the highest rank and independence, representing the intelligence and feelings of the country. He said the proposed union of the Criminal Court of King's Bench and the appeals in the same persons appeared extraordinary to him. Was there to be no legal remedy in criminal matters beyond our Court? No, court of error; nothing after judgment but execution or pardon? The Honourable gentleman finally observed, that eager as the appetite had grown for a new organization of the Courts, and particularly for a new Court of Appeals; if we took this one he should be afraid of indigestion. In a subsequent stage of the Committee, a motion was made by Mr. Bourdages for new Districts and resident Judges in the country parts of the Province.

It was contended in favour of the motion, that the country was disgusted with circuits, very little being done at those that are now held; that, although longer and more frequent terms were proposed; yet, there were many legal proceedings required at all times, which could not be had without journeys to the Towns; that the principal part of the business of the proposed Inferior Courts would still have to be done in the Towns; that the loss of time in going from great distances to the Towns, the loss of time there, from the multiplicity of business before these Courts, for such a numerous population, and the increased expenses throw a too heavy and disproportionate burthen on the country people. That in these journeys to Town, their farms and affairs are left without their labour and superintendence; and the honest and unsuspecting people of the country exposed to the corruption and impositions of the description of persons they unavoidably met with in the Towns; and that it was necessary to declare the sense of the House on this point, for the guidance of the Special Committee to whom it was intended to refer this Bill. On the other side, it was said, that the expences of the proposed system would be great, and such as, with a number of additional Judges, Clerks, Sheriffs, and Officers, Gaols and Court Houses, would be altogether beyond the present means of the Country to pay; that one resident Judge