

The Legal News.

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BUSINESS IN APPEAL.

The protest of Mr. Justice Ramsay which we published last week, with reference to the extra terms imposed by the local government on the Court of Queen's Bench, has naturally excited much comment. It is no doubt rather an unusual proceeding on the part of a judge to condemn, in the vigorous terms used by the learned judge, the supineness of a Government or rather a succession of Governments, which first turn a deaf ear to the reiterated suggestions made to them with the view of expediting the administration of justice, and then, the evil having been aggravated by delay, adopt the first expedient which suggests itself, heedless of the health and convenience of the judges, for such, in substance, is the complaint of the learned judge—but it is not the first time that it has occurred. We remember hearing something of the same kind from the late Mr. Justice Aylwin. See 3 L. C. Law Journal, pp. 97, 119.

From the main suggestion of Mr. Justice Ramsay, that the Court should not be burdened with forty or fifty arguments at a time without sufficient intervals being allowed for deliberation and judgment, we have heard no dissent anywhere. It is a proposition which commends itself to all, for the bar are well aware already that arguments at the end of a fatiguing term are often imperfectly appreciated and quickly forgotten. This has led to the practice, of late years, of making the printed cases much fuller than formerly, when merely the leading points were set out in the factum, and the full argument was reserved for the *viva voce* address.

As a matter of fact, the Court has been able to keep up with the current work; it has no arrears of *delibérés*, but it has been burdened by an arrearage in Montreal of about one hundred cases, dating back eight or nine years. The effect of this is that there is a delay in every instance of about a year between the inscription of a case and the judgment. This is a great evil, which should be remedied if possible. If the Court were once relieved of the Montreal arrears (there are no arrears at Quebec)

the current business could be dispatched promptly. Mr. Justice Ramsay has suggested that the Court should sit almost continuously at Montreal, but three or four days only in each week, allowing the intervening days for deliberation. It is somewhat doubtful whether this would enable the Court to clear the list, but it is certainly more likely to effect that result than the expedient of extra terms. At any rate, it seems to us that the judges themselves should have even more power than is now accorded to them, of arranging the terms and sittings as they think best.

Various expedients have been adopted at times to deal with the difficulty of an overcrowded roll. In New York and Ohio, and probably in other states, the cases in arrears in certain courts have been transferred to a commission to be disposed of, and thus the Court has been enabled to take a fresh start. This would be preferable to a delay of a year in every case for the next ten or twenty years. It has also been suggested in the case of the Quebec Appeal Court, that the Court might sit in two divisions of three judges each, at Quebec and Montreal. This would get rid of the arrears, but there are two objections which occur at once. The Quebec division would have a very small share of the work, and the prestige of the court might be diminished by conflicting decisions. Probably both these objections might be overcome. To the Quebec division might be assigned additional country districts, or the judges of the Quebec division might occasionally assist in Montreal. And as to the second objection, there might be a provision allowing an appeal to the Supreme Court on special application in cases which are not now susceptible of appeal; or there might be a re-hearing in certain cases before the six judges.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

MONTREAL, November 19, 1883.

DORION, C.J., MONK, RAMSAY, TESSIER & CROSS, J.J.
HARVEY et al. (defts. below), Appellants, & O'SHAUGHNESSY et al. (plffs. below), Respondents.

Liquidation of Mutual Building Society—Distribution of surplus assets.

To facilitate the liquidation of a mutual building society a resolution was passed at a meeting of