

different leanings in favour of the respective systems in which each is more particularly versed, the existence of a good and available appellate jurisdiction, which may keep the law uniform and certain, is matter of much greater importance than in those countries in which the law is homogeneous, and its administration by the subordinate tribunals is satisfactory. But the appellate jurisdiction of Lower Canada is vested in the Executive Council, a body established simply for political purposes, and composed of persons in great part having no legal qualifications whatsoever. The Executive Council sits as a court of appeal, four times in the year, and for the space of ten days during each session; on these occasions the two Chief Justices of Quebec and Montreal were, *ex officio*, presidents, and each in turn presided when appeals from the other's district were heard. The laymen who were present to make up the necessary quorum of five, as a matter of course, left the whole matter to the presiding Chief Justice, except in some instances, in which party feelings or pecuniary interests are asserted to have induced the unprofessional members to attend in unusual numbers, to disregard the authority of the Chief Justice, and to pervert the law. In the general run of cases, therefore, the decision was left to the President alone, and each Chief Justice became, in consequence, the real Judge of appeal from the whole court of the other district. It is a matter of perfect and undisputed notoriety, that this system has produced the results which ought to have been foreseen as inevitable; and that, for some time before I arrived in the Province, the two Chief Justices had constantly differed in opinion upon some most important points, and had been in the habit of generally reversing each other's judgments. Not only, therefore, was the law uncertain and different in the two districts, but, owing to the ultimate power of the Court of Appeal, that which was the real law of each district, was that which was held not to be law by the Judges of that district. This is not merely an inference of my own; it is very clear that it was the general opinion of the profession and the public. The Court of Appeal, as re-modelled by me, at the only sitting which it held, reversed all but one of the judgments brought before it. This induced a member of the court to remark to one of the Chief Justices, that so general a reversal of the law of a very competent court below, by a tribunal so competent as the Court of Appeals then was, appeared to him utterly inexplicable, inasmuch as it could in nowise be attributed, as it was before, to the influence of a single Judge. The reply of the Chief Justice was, that the matter was easily accounted for; that the system previously adopted in the Court of Appeals had rendered the decision of the court below so complete a nullity, that the parties and counsel below often would not take the trouble to enter into the real merits of their case, and that the real bearing and law of the case were, generally, most fully stated before the Court of Appeals.

Re-organization of
Court of Appeals.

As the business of the Court of Appeals was thus of great extent and importance, it became necessary that, having, from political considerations, altered the composition of the Executive Council, I should re-organize the Court of Appeals. I determined to do this upon the best principle that I could carry into effect, under the circumstances of the case; for, as the constitution of the Court of Appeals is prescribed by the Constitutional Act, I could not vest the appellate jurisdiction in any other body than the Executive Council. I called, therefore, to the Executive Council the Chief Justice and one Puisne Judge from each of the two districts of Quebec and Montreal, and by summoning also the Judge of Three Rivers, I gave the members of the two conflicting tribunals an impartial arbiter in the person of M. Valliere de St. Real, admitted by universal consent to be the ablest French lawyer in the Province. But the regulations of the Executive Council, which it was supposed I could not alter in this case, required the presence of a quorum of five; and as no Judge could sit on an appeal from his own court, I had now only provided three for every appeal from the two greater districts. In order to make up the quorum, the court was therefore attended by two other executive councillors, one of whom, by his thorough knowledge of commercial law, and his general legal experience, was commonly admitted to have rendered essential service. I believe I may confidently say that the decisions of this court carried far greater weight than those of any previous court of appeals.

Appeal to Privy
Council.

The further appeal to the Privy Council, allowed in cases where the value was above £.500, is, from the great delay and great expense attendant on it, hardly ever resorted to. The establishment of a good appellate jurisdiction for the whole of the North American Colonies is therefore greatly desired by every Province; and