

FUSION OF LAW AND EQUITY.

of Admiralty. That Court has always administered in peace and war maritime international law. To no other Court has the Crown ever granted a commission of prize; and even before the issue of such commission, it has, in the opinion of Lord Stowell, an inherent jurisdiction in these matters. I may observe that the forms of pleading now in use in the High Court of Admiralty are as nearly as possible those which this Report recommends to be generally adopted by all Courts.

- (2.) I think that the want of power in the Commission to consider the composition of the final Court of Appeal has been unfortunate, because it has practically excluded from our consideration—

(a.) Whether it be expedient that two Final Courts of Appeal, namely, the House of Lords and the Judicial Committee of the Privy Council should still continue:

(b.) Whether, if so, the composition of either or both should remain unaltered.

Yet the consideration of both these questions ought, in my judgment, to have preceded, and would perhaps have considerably modified the suggestions for the intermediate Court of Appeal made in this report. I think it also very doubtful whether that Appellate Court should be composed for the most part of Judges exercising appellate jurisdiction only.

ROBERT J. PHILLIMORE.

† CIRCUITS: I cannot concur in this recommendation to its full extent.

G. BRAMWELL.

† We are not able to concur in the recommendation that several counties should be consolidated for assize purposes to the extent indicated in the Report. Our general view is, either that the present system of holding assizes, which is based on the existing divisions of counties, and which brings justice reasonably near to the homes of suitors, witnesses, and jurors, should, with some modifications, be retained; or that the present system of circuits should be altogether discontinued, and Provincial Courts established with assigned districts, having Judges who should go frequent circuits to convenient places within such districts; and with appeal from the Provincial Courts in certain cases to the Metropolitan Courts of Appeal.

MONTAGUE SMITH.

JOHN DUKE COLERIDGE.

§ I desire to record my opinion, that the following questions should be further considered:—

Whether all proceedings should not be commenced and prosecuted in the County Courts, unless it appears from the nature of

the case that it is proper to remove it into the Supreme Court.

Whether it is desirable to allow such facilities for appealing, and repetition of appeals.

Whether, having regard to the unequal means of litigants, the changes proposed might not render it desirable to establish a new system of legal remuneration, and to limit the claims of suitors against each other for costs.

Whether it might not be desirable to substitute for the discretion of the Judges in respect of costs certain rules of positive application.

Whether the qualification of jurors should not rather be lowered than increased.

Whether sufficient consideration has been given to the other elements in the administration of the law beyond that of excellence of judicial decision, namely, the time of the suit, the expense to the suitor, and the influence of the administration of justice on the social and political condition of the people.

Whether the House of Lords, if it is to continue a Court of Appeal, might not be rendered efficient for the purpose by legal peerages conferred on Judges of a certain standing, so as to make the Bench independent of the pleasure of the Crown, and by constituting a permanent Committee of such peers, on the principle of the Judicial Committee of the Privy Council.

ACTON S. AYRTON.

Thus concludes the first Report of the Commissioners. The Bill first founded upon it fell through, but we understand it will, in an altered shape, be again brought before the Houses of Parliament in England.

The subject is one of great interest to the profession in Canada in view of this and of the resolutions recently brought before the Ontario Legislature by Mr. Edward Blake:—

“1. That according to the present plan of dispensing justice in civil cases, there are two different and inconsistent systems of law, one of which is framed chiefly to soften the rigour and supply the defects of the other.

2. That these two systems are administered by different Courts, with different modes of procedure, neither Court being competent to do full justice or administer the whole law of the land in each case before it.

3. That this plan is anomalous in theory, and in practice involves great and needless expense to suitors, causes confusion, embarrassment and uncertainty in the law, and retards its amendment.

4. That under any well regulated plan there should be but one system of law, under which each party to a suit should be able to enforce in that suit against the opposite party his full rights.

5. That in the opinion of this House steps should be taken to obviate the defects indicated,