

"This was the second of the first two days appointed for the sittings of the Court out of Term, and in the course of the day, as also yesterday and almost every day during the sittings *in banc*, discussions arose as to the difficulty the Court finds in so constituting itself as to enable itself to carry on the business. It will be observed that the Court, as stated by one of the judges to-day, holds these *post terminal* sittings primarily for the purpose of clearing the New Trial Paper, in order that cases in which new trials are granted may be sent down to trial at the assizes without delay. But when the Court sits as a kind of court of appeal on an application for new trial for misdirection, as it is either in the nature of an appeal from the presiding judge, or turns upon the facts with which he is best acquainted, it is not considered by the Bar satisfactory that a case should be heard by less than two judges in addition to the judge who tried the case; and this requires that there should be a court composed, at least, of three members. But, then, as the Lord Chief Justice is sitting at *Nisi Prius*—and another judge ought to be sitting to clear the enormous cause list—and another is wanted at Chambers, and one or more are wanted in the Courts of Error, Probate and Divorce (to say nothing of the Central Criminal Court), and there are only five judges in each court, there is, it will be seen, great difficulty in carrying on these sittings, and the courts have continually to put off or break off cases, in a manner exceedingly inconvenient to justice, simply because it is impossible for one judge to be in more than one place at a time, and it is also impossible to make five judges into seven or eight. Thus, in the course of the day, Mr. Justice Blackburn having gone to Chambers, and an important case standing next on the paper, which it was found could not come on to-day,—

Mr. BRET, counsel for the plaintiff, said there was an important new trial case which would occupy a great deal of time when it came to be discussed, and he should not think it satisfactory that it should be heard with only one judge besides the judge who tried it.

The LORD CHIEF JUSTICE.—Certainly not.

Mr. BRET said that, as it stood for argument at the sittings next week, this must be the result, as the Lord Chief Justice and another judge would be at *Nisi Prius*, and a third at Chambers, or in a Court of Error. He should not object to its standing over till next Term.

Mr. E. JAMES, counsel for the defendants, said he quite agreed in the suggestion of his learned friend.

Mr. Justice MELLOR.—Unless we are somehow relieved of going to Chambers, only two judges can be found to sit, at least for half the day, and as one of these must be my brother Shee, who tried the case, there cannot be a satisfactory tribunal for the parties.

The LORD CHIEF JUSTICE.—What is the present condition of the Bill relating to the Masters at Chambers? In ordinary times we can manage with the present machinery; but out of Term, with two judges at *Nisi Prius*, the demands upon us for the Exchequer Chamber, and the necessity of appointing sittings *in banc* out of Term, unless we are in some way relieved of the business at Chambers, public business in the courts must come to a deadlock.

It was then agreed that the case in question should be postponed till Michaelmas Term.

It may be mentioned that this very day the Court of Error in the Exchequer Chamber had to break off in the middle of a case and rise early, simply through deficiency of judges—two of the learned judges having to go to Chambers, where one from each court is required daily, so that only four were left to review a decision by an equal number of judges in the Court below. The condition of the Court of Exchequer Chamber, with regard to its constitution, is daily a subject of complaint and dissatisfaction, arising from the same cause—cases decided by four judges, and it may be in accordance with one or more decisions by four judges in other courts—*i. e.*, the decision of eight or ten or twelve judges being continually reviewed and reversed by five or six, perhaps by a majority of three out of five, or four out of six. And the condition either on the one hand of the New Trial Paper or Special Paper of the courts *in banc*,