will not take part in his conferences, in which they are only to enjoy a formal pre-eminence.

And here I may take occasion to meet an aspersion gratuitously thrown out against the judges, that they habitually refrain from mixing themselves up in matters affecting their own position and the law, and particularly that they did not offer suggestions on the project of the civil code.

In the first place, the charge is not altogether founded. The judges have ceased, to a great extent, to offer suggestions, because when they have done so their suggestions have been rereceived, if not with absolute discourtesy, at all events with an official reserve almost offensive. For my own part, in spite of the cooling influence of official manners, I have three or four times, within the last few years, urged on the attention of the Attorney-General of the day, a change as to hearing cases in appeal in the district of Montreal, which could have been operated by the enactment of a very few words, but without producing any apparent effect, although the plan was approved of by the bar. I shall allude to the scheme later, in speaking of the Court of Appeals, as to some extent it is adopted by the report.

The particular charge as to the code seems to me to be specially ill-chosen. The judges had no opportunity afforded them to enter on a critical examination of a work of that kind. The work of the judges in the great towns was even then sufficient to prevent any of them undertaking the arduous manual labour of writing critical notes on the code. I have heard the work of the English judges compared with ours. It is well the attention of these statists, who delight in comparative depreciation, should be directed to the fact that the judges in this country have no assistance in the way of secretaries or clerks, as they have in England and Scotland. The Chief Justice of the Queen's Bench Division in England has a secretary and two clerks, at the cost of £1,000 sterling a year, and each of the other judges has two clerks. Each minister, not only of the Dominion Government but of the local Government, has found it necessary to have a private secretary in addition to the regular staff of his department. I wonder if it ever occurred to any of these gentlemen that our work, by comparison with that of our predecessors, has increased quite as much as theirs? In the country districts the judges had not the books necessary to enable them to criticize the draft of the code, if they had the leisure. On this point then the habitual amusement of carping at the judges fails. General accusations may be more successful. They have a double advantage; they look less vicious, and they are less easily answered. I have no objection that the judge should be called to as strict an account as any other official, but the Bench cannot control bungling laws. Burke says: "Where there is an abuse of office, the first thing that occurs in heat is to censure the officer. Our natural disposition leads all our enquiries rather to persons than to things." And so, perhaps, our national freak in this respect may be referred back to a human weakness, freely indulged.

There is a note beginning at p. 135, which it may be as well to notice here. It is as to the formation of family councils, and the mode of dealing with all such questions as the appointment of tutors and curators and granting authorisations to deal with the property of minors, absentees and incapables.

What the Commissioner says is strictly true. All those who have had to deal with these cases must have felt how dangerous were the powers to be exercised. But this may be said with equal truth of almost all non-contentious proceedings. The most vigilant judge can do little in such matters. Of course, he may exact, as the Commissioner suggests, an account of the family, and demand an explanation of the absence or presence of this or that person; but to do this effectively he must institute some sort of enquiry. In doing this he may ruin a small estate in his well-intentioned efforts to preserve it. It will be observed that it is the small estates that are most open to dilapidation. In the management of great ones the relations relieve the judge of all solicitude.

But all these alarms are as old as the hills. It is the cure that it is difficult to discover, and I doubt much whether we can mend our present system. In England the Chancery system, perfect in theory, became often disastrous in practice, and it fell, overwhelmed by the jeers and denunciations of satirists and of the public.

So far as I know, allowing the Prothonotary to act in the absence of the judge, has not given