

tration of justice. My object has been to try to point out other methods which ought to be considered before we go further in a direction I think erroneous, and I think that we ought to endeavor to put the system, so far as our limited power extends, on a really sound, instead of continuing it on an unsound basis, and extending the unsound foundation on which it now rests. I intend to say very little about the additional Judge for the Court of Queen's Bench. You will have observed, I think, that from my point of view that step is also premature, because I have been pointing out that the number of appeals is entirely in excess of what it ought to be under a proper system; and if you are going to change the system and diminish the appeals, you would be diminishing the work of those Judges. But that is not all. One of the Judges of that Court not long ago published some memoranda on the subject, and that in view of the proposed Provincial Legislation. I shall trouble the House with an extract or two from these memoranda which have been published in the *Legal News*. Here are the suggestions made by Judge Ramsay:

"It is generally admitted that the Court of Queen's Bench, with its terms, as at present organized, is unable to deal with the work before it. If any evidence of this were required, it is to be found in the fact that there were about 120 cases ready for hearing in the district of Montreal in the March term of 1874, and that to-morrow we shall find ourselves in face of a roll of eighty-four cases. Of these cases we shall probably hear thirty. In a little over six years, we have therefore only made up our leeway to the extent of thirty-six cases. Evidently this is too close to be pleasant. Again, there are only two terms of the Criminal Court, and they have expanded into terms of from five to six weeks."

"The practical question that presents itself is as to the remedy to be applied. It is impossible to devise a remedy without having some positive knowledge as to the cause of the complaint. If a Court cannot keep down arrears, it is at once proposed to name more Judges, and the superficial observer is immediately satisfied with this expedient. If, really, the Judges of the Queen's Bench had too much to do, an addition of their number might, perhaps, be necessary. But I contend that the Judges ought to be able to do all the work before them, and are able to do it, if the Government and Legislature were content to give them leave to manage their time according to the requirements of suitors. In a word, the real difficulty arises from the existence of terms on the appeal side, and from their infrequency on the Crown side of the Court."

He says again:

"I have accompanied my criticisms with suggestions of amendments of a very simple kind, which I venture to affirm would enable five Judges to dispose of all the appeal cases likely to arise in the Province for the next twenty years. Second, that a change is now contemplated which, if anything, aggravates the evils of the present system and adds a new one."

He says further on:

"The scheme I have proposed, and which has met with the concurrence of the Bar, is to make the quorum of the Court four without any faculty, to name a fifth Judge, the judgment being either confirmed where there is an equal division of opinion, or a rehearing in chambers before the fifth Judge, to abolish all terms and to permit the Court to sit on such days at Quebec or Montreal during eight or nine months of the year as the Court or Judges shall from time to time fix and appoint."

In the second letter he says:

"The proposition to increase the number and to protract the length of the terms is totally delusive. It fills the eye of an uncritical public, but it does not do the one thing needful, it does not give the Judges of the Court of Queen's Bench greater facility for getting through their work than they have at present."

He points out the reason:

"The only hope I see is that the badness of the measure now before the Legislature may lead to some change in practice, which it is not easy at present to foreshadow. This is not a very promising way of considering the matter, but it is all the consolation we can expect, for the measure is sure to pass. The luxury of creating a new office is too dear to the Government heart to be readily abandoned. With a bad measure the sixth Judge is almost a necessity; with a good measure no apology can be offered for his existence."

That is the view of that gentleman, a member of this Court, so much overworked. He declares it is entirely unnecessary to appoint the sixth Judge, because other remedies which he points out would answer equally well. I might say that there seems to me—looking at it from another point of view, I admit—a great deal of reason in the view that a modification of the law as to the terms of Court would be of great importance. In the Province of Ontario we have terms, in

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one sense, that is to say: there are fixed days on which the Court of Appeals should sit, but it is entitled to sit on other days, and it is entitled to protract its sittings until the business before it has terminated. It is not limited to a fixed number of days within which it must finish the business before it, but it is given the utmost elasticity in order to accomplish the duties which it does accomplish. I say that in the face of such a letter from one of the Judges of the Court, I think the subject ought to be further considered, and if it be true that a more extensive plan of reform would diminish the appellate labors of the Court of Queen's Bench, on that account alone it is not convenient, in my view, at this time to adopt this measure. I shall not attempt to discuss the details of proposed changes. Various changes have been proposed at various times. I feel my incompetency to enter into the discussion of those questions of detail; in truth, I have felt that it was an extremely delicate task for me to interfere at all in this matter, but I have felt at the same time that my hon. friends would recognize the spirit in which I have attempted to deal with the subject, as one which, however imperfect my observations might be, was not at all invidious. My desire has been to give such suggestions, as from my experience—widely different though it be from theirs—it seemed to me might be useful to the Province of Quebec, and to my fellow-members of the Bar from that Province, upon a subject of importance to all, but of extreme importance to them in regard to the administration of justice in that Province. All I suggest—and I may say I have no intention of enforcing my recommendation by any hostile proposition, at least, at this stage—is that the case is one for pausing. It was not until June last that the Provincial Legislature determined to create these Judges; that Legislature will shortly meet again; and if the discussion which is to take place at this and later stages of this measure should lead to the conclusion in the minds of my hon. friends from the Province of Quebec, that there are serious evils in the administration of justice in the Province not likely to be remedied by this measure, and that these evils required some more searching measure of reform, would it not be well to postpone, at any rate for one Session of our Legislature, the adoption of a plan which does not appear, so far as I can judge, to be rendered necessary by the present state of business—which does not appear to be urgent in that sense—of a plan whose adoption, followed by the filling of these judgeships, will necessarily create fresh embarrassments instead of rendering easier the path of reform. I have to apologise to the House for having addressed it at such a length; but I may say that from an early period I have taken a deep, though I admit, a very imperfectly informed interest in the administration of justice in the various Provinces—an interest which was naturally deepened when I was Minister of Justice, particularly with reference to the Province of Quebec, when I had occasion to meet the representatives of the Bar and Bench as I have stated, and also to deal with other matters in connection with the judiciary of that Province. I hope that the members from Quebec will not so misunderstand me as to suppose that I desire to put any undue pressure on the Local Legislature of that Province. I should resent that kind of pressure, if it were sought to be applied to the Legislature of my own Province; and I should, as I hope my hon. friends believe, equally oppose its being exercised against the Legislature of Quebec. But I think, charged as we are with the duty of creating a Judge and of fixing his salary; knowing as we do that a large portion of the laws administered by these Judges are our own laws, I think it is not out of place for us carefully to consider any proposals for additions to the judiciary of any Province, and to see whether the steps we take are really in the direction of permanent reform, or whether they are