

## The Legal News.

VOL. VI. JANUARY 13, 1883. No. 2.

### JUDICIAL REFORM.

The meetings of the General Council of the Bar to discuss suggestions for judicial reform show gratifying signs of vitality. It is to be hoped they may have influence to arrest the attention of Ministers sufficiently to make them understand the importance of the subject, and appreciate the certain inconveniences of the *statu quo*. We all know that every movement to that abnormally constituted institution, a popular government, is more or less perilous; but those who seek for the honours of public life should remember that there is a corresponding duty—*noblesse oblige*. It is not to be expected that the Attorney General, with all the major cares of administration on his hands, should attempt to work out the details of the very important reforms demanded by the great increase of legal business in Montreal, but he should name a commission to draw the amendments, and he should find the time necessary to make himself perfectly familiar with the reasons for and against any proposed change. A measure so prepared should be then introduced, and if the commissioners be properly selected, it would probably be dealt with in the House of Assembly as a non-political question. In proposing a commission, an unpaid commission is intended. Paid commissions are almost always turned into jobs. They are directed to the most eager rather than to the fittest persons. The unpaid commissions will not be run after with indecent zeal. Three commissioners are enough, and they should all be residents of the same locality. The whole cost of the thing would be the salaries of one or two clerks, and a little printing. Such a commission could easily have its report ready for the 1st of March.

The suggestions already made by the General Council are for the most part in the right direction. They recognize a principle that is very valuable in all wholesome progressive movements, and that is to avoid revolutionary tendencies. The great object in dealing with legal procedure is to seek to simplify rather

than to hurry. While it is perfectly true that every legal delay so far defeats the abstract idea of justice, it is against the nature of legal proceedings to be very expeditious. Time must be given to both parties to state their case, and opportunity must be given to the judge to become acquainted with the matter. It is as absurd to suppose that a judge can be ready for each case at a given moment as to expect that each traveller is to find a train ready to start at the instant he desires to move. *Vis inertiae*, the most formidable force of parliamentary governments, is alone responsible for our difficulties. The number of judges of the higher courts of law here, is considerably in excess of the requirements of the country, the distribution of their work is ridiculous. Here, then, is a point for wholesome change and reform.

The General Council has wisely rejected the idea of altering the one judge system and of doing away with the Court of Review. Any one who can count his fingers and thumbs must be able to assure himself that the abolition of the Court of Review means the blockade of the Court of Appeals. Curious to say, after twice rejecting the proposition to do away with Review, the Council passed a resolution to allow appeal from the confirmatory judgment in Review. This looks as if the practitioner's love of a multiplicity of appeals had a disturbing influence on the deliberations of the Council.

The rejection of so much of Mr. White's motion as proposed to make the quorum in appeal four, and in case of equal division to make it a confirmation of the judgment appealed from, is unfortunate. It is the true juridical idea. The decision in first instance should count for something, and the hostility to the rule advocated by Mr. White is not the outcome of reason. It is the sporting notion which prevails, "to start with equal chances." But the doctrine of chance does not fairly apply.

Again, tramping the Court of Review about to Three Rivers and St. Francis, may suit the convenience of lawyers practising in these places, but it is not for the general advantage. It will only serve to delay the business of the Court, and waste the time of the Judges.

The least commendable of the suggestions was proposed by Mr. Pagnuelo, seconded by