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THE COURT OF QUEEN'S BENCH AND ITS SITTINGS—HOW TO TURN THEM TO ACCOUNT.

The Bench and the Bar will not gain much by amateur suggestions. The *amicus curiæ* is a personage of very doubtful utility. In his wisdom he tells us that if pleaders talked less, if judges interrupted less, and lawyers and judges did not wrangle, cases would be more promptly heard. As a matter of fact no other portion of the community, brought into such sharp conflict of opinion, in matters of the deepest interest, show so much reserve as judges and lawyers. If they exhibited as much disregard for one another's feelings as the contending parties in the House of Commons, or the shareholders at a bank-meeting when there is no dividend, or even as co-religionists in the vestry-room, Courts of Justice would become more entertaining than the "ring" or a bull-fight.

It requires experience, careful study and a frank admission of our short comings to get on to the line of practical improvement.

In this Province we begin with the great advantage of having the best system of law in the world, and the schools, established within the last thirty-five years, have done much to develop legal knowledge: but generally we lack training, and our system of procedure is simply detestable. It is neither French nor English, but a hideous jumble of both.

Want of training is very manifest in pleading both written and oral. When it is said a pleader speaks too long, it is only another way of saying he pleads badly. No one intends to weary his audience, for the hearer has always some measure of protection—he can cease to listen. On the other hand it is manifest that an argument to the point, and systematically arranged, is of immense use, provided the judge is prepared to listen and to understand it, and if he is not to throw the case into a bag after the hearing, and to leave it there till all that has been said is forgotten. The union of the two branches of the profession is a great difficulty in the way of good pleading, and renders special training in this important matter doubly needful. Either from economy, or from the idea that he knows more of the case than he can communicate to counsel, or from vanity, the attorney invariably pleads his own case, whether he be eloquent or not, or whether he hesitates or stutters, or whether his voice is melodious or monotonous, or whether he has any aptitude for the clear exposition of a principle or for the striking grouping of facts or not. All these deficiencies, as well as every act that depends mainly on method and good taste for its efficient performance, can be to a great extent affected by education. Therefore it is to the schools we must look for a remedy in these particulars.

The legislature must aid us in procedure. The first and greatest difficulty is the taking of evidence. Theoretical writers constantly tell us that the written evidence should be as nearly in the words of the witness as possible, and doubtless, in the abstract, the rule is true. But when in practice, this is attempted to be carried out, a mass of rubbish is collected, in the midst of which the evidence is as likely to be lost as the traditional needle in the bottle of hay.

The cure for loose and useless accumulation of evidence is to be found firstly, in scientific pleading. Unfortunately that unrefined critic "public opinion" is vehemently opposed in the present day to intellectual distinctions, he finds them difficult and wearisome, all of which we readily admit; but so are the great problems of mathematics, and so also it is difficult and very wearisome to dig. The cure is to be found secondly in keeping the whole case, from the beginning to the end, under judicial control. One of the schemes devised for this is to have a *juge d'instruction*. The judge of first instance should be the *juge d'instruction*, and his notes, and not the rambling story of the witness, should be the evidence in the case. The objection is, that the judges have not time. There is nothing in this; evidence can be more easily taken by a judge without a jury than with one. The real impediment is the prejudice of old attorney, who likes to nurse his case, and, by adjournments, to have an opportunity of plastering up holes. These plasterings are very generally untrustworthy evidence, or they are unsuccessful.