

CORRESPONDENCE.

having concurrent Civil and Criminal Courts sitting as in England.

The present judicial staff is numerically weak. Each Judge is taxed to his utmost, from the beginning to the end of the year; and no respite can be granted to any without inconvenience to all. The judiciary is now worked on the assumption that all the Judges will be at all times in good health, and able to discharge their important and responsible duties. Should a Judge be unable to do his work there is no other Judge to take his place. The only alternative is to permit him to appoint a County Judge or Queen's Counsel. The difficulty of getting a Queen's Counsel in practice to accept such temporary employment is only too well known to those who have been compelled to resort to this expedient; and there is even a difficulty in getting a competent County Judge to do the work. Besides it is notorious that "Journemen Judges," even when procured to take seats temporarily on the Bench of the Superior Courts, do not command either the respect or attention of those whose place they fill. Resorts to such expedients are in every aspect unsatisfactory, and are only justifiable so long as the judicial staff is kept at its minimum as regards numbers, and worked to its maximum. The continuance of this system is a reproach to the intelligence and wealth of our country. Money spent in securing the prompt, firm and decent administration of justice, either criminal or civil, is well spent. It is to be hoped that the day is near at hand when we shall be able to hail the advent of a different state of things.

Some contend that each of our Superior Courts of Law and Equity ought to be presided over by at least five Judges; but having regard to the future, as well as the present, I do not think the appointment of six new Judges, four Common Law and two Chancery, would be at all beyond the mark. I would prefer a court composed of an uneven number of Judges, for the same reason that three arbitrators are preferred to two. The principle is that there may be a majority decision where there is a probability of differences of opinion. It may be said that the differences among our Judges are so rare that no provision of the kind is necessary, and that four Judges in each Court would for the pre-

sent answer every needful purpose. If the Judges were not so hard pressed for time, it is possible that differences of opinion would be more frequent. Litigants have a right to the judgment of each Judge on each case argued before them. If, for want of time or other such cause, one of several Judges defers merely to the judgment of his brother Judge or Judges, he denies to the litigant his full rights. I do not say that this at present is the case; but certainly when Judges are overworked there is danger of such being the case.

An increase of the Judges is absolutely needed; the measure of that increase must, according to legal fiction, be left to the wisdom of Parliament. The responsibility of delaying or granting the reform, however, rests with the Attorney-General of Ontario. None knows better than he, an ex-Judge of an over-worked Court, the pressing need of such a reform. He possesses the ability, as well as the knowledge necessary to the reform. Some have argued that so long as one political party ruled in the Government of Ontario, and their opponents in the Government of the Dominion, there would be no increase of the judiciary. For my part, I never saw anything in that argument. The importance of having the best men independent of political considerations, is so great, that Governments, both here and in England, as often select their political opponents as their political friends for judicial appointments. The last appointment made by Sir John A. Macdonald to the Court of Chancery was an instance of this. But now that the same political party rules both in Toronto and Ottawa, even the shadow of an excuse for delay is removed.

I read with much interest the charge of Mr. Justice Wilson at the opening of the Toronto winter assize. He is one of the most conscientious and painstaking of our Judges. He has never been known to shirk his work; and when he, in language cogent, supported by figures which cannot be questioned, advocated an increase of the judiciary, the public can fairly judge of the necessity for the change and the urgency for immediate action.

Yours, &c.,

SIGMA.

TORONTO, January 24, 1874.