

The Legal News.

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THE O'FARRELL CASE.

We insert, at the request of a correspondent, an opinion given by counsel in England on a case submitted to them in the matter of Mr. O'Farrell. This opinion was obtained, we presume, with a view to prosecuting an appeal to the Privy Council. Pending the decision of that tribunal, it is judicious to refrain from discussion of the questions involved. We might remark, however, that those who have had much acquaintance with opinions of counsel—not excepting even gentlemen as deservedly eminent as Sir J. F. Stephen and Mr. Benjamin—will hardly be disposed to pay the Quebec Court of Review so poor a compliment as to imagine that the unanimous judgment of that tribunal derives much additional weight from the opinion now published. Courts and Judges differ, and learned counsel differ with at least equal facility, and for anything we know, an opinion diametrically opposite may have been obtained on the other side from counsel of like celebrity.

DISSENTIENT OPINIONS.

An article which is copied below from a contemporary, sets forth the reasons which may be adduced in behalf of the suppression of dissentient opinions in appellate tribunals. We reproduce this reply for the purpose of completing and closing the discussion for the present. It may be remarked that as our contemporary restricts his argument to "supreme appellate tribunals," it hardly applies, so far as the Province of Quebec is concerned, to the Supreme Court of Canada. For the direct appeal to the Privy Council still exists, and the highest Court of the Province has formally decided that even a concurrent appeal, as the law stands at present, may be taken to the Supreme Court and to the Judicial Committee of the Privy Council. See *The City of Montreal & Devlin*, p. 151. Conflicting decisions might, therefore, be pronounced at Ottawa and London, and in that event, Her Majesty's Judicial Committee would, no doubt, exercise their discretion,

and allow an appeal from the judgment of the Supreme Court, which, therefore, can hardly be considered the supreme appellate tribunal for Quebec.

As our contemporary agrees with us in thinking "that there should be no cast-iron rule, but that the matter should be left to the discretion and wisdom of the Judges themselves," the difference between the views which we have expressed and those copied elsewhere is apparently a very narrow one. No one can deprecate more earnestly than we do lengthy unwritten arguments, by Judges who dissent in ordinary cases, in favor of their individual opinions. Such a practice is more than a waste of public time, and we think professional opinion ought to be brought to bear in every legitimate way to put an end to it.

DISSENTING JUDGMENTS.

[Canada Law Journal.]

Our former article thus entitled has provoked a good deal of hostile criticism in the columns of our Quebec contemporary, *The Legal News*. The practice of the Privy Council in delivering one judgment which represents the joint opinion of the Court, though pronounced an admirable practice by the last editor of Austin's Jurisprudence, finds no favour with the Montreal critic. The sole reason given is the very insufficient one "that the suppression of dissentient opinions has proved highly inconvenient in several cases. . . . in passing over important issues on which both parties desired an opinion." It may gratify the individuals interested in the particular case to have all its niceties explored, and each judge giving his views thereon; but regarding the matter from the broader point of view of the profession, such judgments do not declare the law except in so far as the judges concur in the matter decided. All else is in the nature of *obiter dicta* and the accumulation of such opinions in the reports is by all thoughtful jurists deprecated. Life is too short for the professional man to master the growing accumulations of the law, even when most carefully expurgated in the reports. Why should he further be compelled to waste time in finding out what is decided by going through the reasonings of each particular judge and aggregating the results? With all deference to opposite views, we submit that