The Legal News.

Vol. VI. DECEMBER 22, 1883. No. 51.

THE SITTINGS OF THE COURT OF QUEEN'S BENCH—DISPLACING THE QUESTION.

There are all kinds of argument—good, bad, and indifferent—which may fairly be used; but there is another kind of representation, often used in discussion, which is not so defensible. It consists in the adroit substitution of a suggestion, which has no pretension to be an argument in place of one, so as to divert the attention from the matter in hand to some cognate subject.

Thus we have been reminded that there are two thousand cases in arrear in the Supreme Court of the United States, and that several English Courts have from five to eight hundred cases in arrear. It is impossible to imagine how these facts, if they be true, can alleviate the condition of a litigant before the Court of Appeals of this Province.

> "And common is the commonplace,
> And vacant chaff well-meant for grain."

There are delays inseparable from the administration of justice, but delay caused permanently by the encumbrance of the Roll for hearing cases is not necessary, and is a reproach to those who administer the law, or to the legislature which fails to provide sufficient machinery, or to both.

On the other hand, we are assured that the lawyers are too long-winded, and that the *panacea* for all evils of this sort is to be found in imitating the system adopted in Louisiana. It appears, that there, they manage to dispose of 100 cases in a few days. This is very satisfactory in a sense, and with similar expedition here, we should not only get rid of our arrears in a twinkling, but we should have the satisfaction of seeing the six Judges of Appeal enjoying an enviable amount of leisure. But before growing enthusiastic about this captivating result, let us see by what means it is obtained. The Court there is composed of five judges, who sit together to hear cases, the lawyers are allowed an hour each to speak in any case, whether they have much or little to say, and no one is permitted to speak longer than an hour without leave of the Court. Then the case, being heard, is taken *en délibéré*, that is to say, one of the five judges examines it, and makes a report of his examination to the others. If they agree to this report, then judgment is rendered for the party in favor of whom the examining judge reports; if not, there may be some discussion, which must evidently be between those who are slightly informed of the merits and one who knows them thoroughly, till they come to the opinion of a majority. If the unsuccessful party is not satisfied, he asks for a re-hearing, which, it seems, he rarely gets; but if he does, the case is again referred to one judge, and so on the matter goes again till the Court refuses to be further occupied with the question. The excellence, from an executive point of view, evidently consists in choking off re-hearings.

I am not prepared to say that justice is not well administered in Louisiana, but before accepting these exotic novelties, which seem to delight the imagination of those who dread the slightest home-spun innovation, a great change will have to be operated in the minds not only of the bar but of the public. If the public choose to be satisfied with judgments pronounced on the appreciation of one judge, or on the impulse of the minute by five, the arrears may easily be disposed of, even without the help of extra terms.

In the Quebec *Chronicle* of the 4th December, there is an instance of a still more objectionable mode of displacing the question. Some one signing "A Barrister," writes:—"If the idea expressed by one of the judges, that the Court should sit permanently in Montreal, was carried out, Quebec's *role* would be reduced to that of a rural district, and the litigants of our city would be forced to carry their records and cases to Montreal lawyers, who would not refuse them."

There are fictions founded upon fact, but this is one of a different sort.

For the honour of the profession it is to be hoped that the pseudonym of the *Chronicle's* correspondent is not more true than his statement.

R.