

The length of trials has much increased, which I attribute in some measure to the parties being allowed to testify, making many simple cases of pounds, shillings and pence, to involve the character of the parties through directly contradictory swearing. The discontinuance of special pleading add to this, as the true issue on which the cases turn does not appear on the record; and here our Legislature has adopted quite the contrary course from that of England, while it is well known the Scottish practice takes great care to distribute the question into distinct points of law for the Court, and points of fact for the Jury.

I think more judicial force at present requisite. This may not be necessary for a permanent arrangement, but is now indispensable if the dockets are to be got through.

The system in England, where Barristers are a distinct class from Attorneys, and the few leaders of the Circuit are really assistants to the Judge as well as advocates for the parties, works very differently; but there being two Judges on each Circuit, (except the Welch) and the Sergeants at Law and the Queen's Counsel being included in the Commissions of Oyer and Terminer, Assize, and Nisi Prius, one Judge assists the other, and the assistance of a Sergeant or Queen's Counsel is often resorted to, which prevents the accumulation of arrears.

Besides this, the County Courts, which have jurisdiction to £50, and to any amount by consent, have withdrawn much business from the Circuits.

So long as there is a probability of causes being left untried, men will speculate on it, and not try to settle as they ought to do.

R. P.

From Chief Justice to Provincial Secretary in reference to Judge Parker's Memorandum.

*Fredericton, 25th February, 1864.*

SIR,—I have the honor to submit for the information of His Excellency the Lieutenant Governor, the views of the Judges on the matters referred to in your Communication of the 10th December 1863.

I beg to state that the following observations are to be considered as the joint opinion of Mr. Justice Parker, Mr. Justice Wilmot, Mr. Justice Ritchie, and myself: The Master of the Rolls never having taken a part in Circuit duty, did not think it desirable for him to take any part in the consideration of the matters referred to the Judges by you.

The labours of the Judges have been increased within the last few years to an extent far beyond what a superficial observer would have any idea of. This arises not only from the increased business of the country, but is the result likewise of modern legislation. That the trials of causes now occupy much more time than formerly must be apparent to every one. To a certain extent this may be occasioned by an enlarged Bar, and greater professional competition; and doubtless in many cases the trials might be much shortened by greater previous preparation and greater brevity, without disadvantage to the clients, still it cannot be disputed that the enactment authorizing the examination of parties, has not only materially increased the business of the Courts, but very greatly added to the length of the trials. Many cases are now tried which never could have stood for a moment without the plaintiff's own evidence; and in like manner many causes are now defended, in which the defendant, without his own evidence, would never have risked the expense of a trial. As a general rule, in all cases now tried, the parties are examined, their statements, always in conflict, are too often in direct contradiction one of the other; the examination and cross-examination are in consequence generally most tediously protracted, and this is of course increased in a proportionate rate with the number of plaintiffs and defendants; but this is not all, these conflicts and contradictions involve the character of the parties, where otherwise the simple question would be one of a pecuniary or business character; this, as it affects the feelings of the parties, necessarily affects the action of the Counsel, and additional witnesses are now often called to corroborate or rebut; and elements introduced into the discussion which, under the old system, where only disinterested witnesses were allowed to testify, would never have arisen.

Again, the duties of the Judges have been much increased, by the increase in the Magisterial business throughout the country. Formerly reviews of Justices proceedings were of occasional, now they are of constant occurrence, and applications of this character are constantly increasing, and occupy no small portion of the Judges time at Chambers.