

## OUR COURTS OF LAW—PROCEDURE IN COMMERCIAL SUITS.

THERE is no class of the community more interested in the enactment of good laws, and then in their administration, than that important body in every civilized country engaged in the pursuit of commerce, for no care or efforts, on their part, can often shield them from the effects of a defective system of jurisprudence, mischievous legislation, or ignorance and venality in those presiding over courts of justice. In Lower Canada, up to a recent period, we have had little to complain of in the constitution of the Bench, for many of our judges have been men of great talents and attainments, most of them have been respectable on that head, and they have never been liable to the charge of dishonesty or partiality in the performance of their high functions. But when one of the Justices of the Supreme Court of this Province announces, in open Court, that he considers it due to himself to resign the office which he has so long filled, and with such eminent ability, we are forced to believe that our judicial system is grievously out of joint. Had Judge Aylwin retired from the Bench, he, professedly, on the plea of old age, ill health, or length of service, his doing so might create regret, but no surprise; but when he stated the cause of his resignation to be the unsatisfactory state of the Court over which he and his colleagues preside, there is reason that the public should not only be surprised, but feel the utmost apprehension on the subject. Mr. Aylwin declared that the business of the Queen's Bench was so hopelessly in arrears that there was no prospect of improvement, as matters are now managed, and he shrinks from the responsibility of such a condition of affairs. And this is not the case in the Court of Appeals alone; for while the number of suits instituted before the inferior tribunals has greatly diminished, those undecided, and on which judgment cannot be had for months to come, are, we believe, greater than ever was known before. View the question as we may, it is an alarming one, and it is full time that the evil should be remedied. A good deal has been effected in this direction within the last dozen years, but much more remains to be done; and we shall attempt to point out a few necessary changes in the existing practice of the Courts which we think would be attended with beneficial results, confining ourselves to such matters as concern commercial suits. To explain ourselves to the non-professional reader, we shall begin by giving the ordinary proceedings in an action on a promissory note. There is, of course, the writ of summons, which must be filled up with the utmost precision, as to time place and person, or it runs the risk of being quashed; then comes a long declaration, generally containing numberless counts, as they are called, and in which precision is equally necessary. If the defendant is desirous of obtaining delay, his Attorney has recourse to motions and preliminary pleas expending much time, and after these have been disposed of, defences in law and to the merits are at last filed, the evidence is then produced, and judgment is rendered. All this often extends over many monthly terms of the Court, before the still greater delay of an appeal has to be encountered. Unfortunately there is, as a rule, no short road to justice, and much of this evil must continue to be endured, for most of the summary remedies that have been attempted have been worse than useless, or to repeat a common phrase the cure has been worse than the disease. As at least a partial remedy, we would propose, nevertheless, that in the matter of pleading, the existing system should be wholly changed, and though the alterations we contemplate may appear sufficiently simple, we feel confident that they would be attended with many important results, as regards the delays in obtaining judgment which are now so universally complained of by all who are forced to seek justice in our Courts. We would propose, then, that in commercial suits generally all pleadings should be dispensed with, and that in addition to the writ of summons, an account should be produced, and the only declaration required would be a written demand, somewhat in these terms:—"The plaintiff demands from the defendant the sum of — as per statement hereto annexed." The defendant would then answer that he was or was not indebted; evidence, documentary or verbal, would be adduced, and judgment rendered in due course. Nine-tenths of the commercial cases which come before the Courts could be so disposed of in a fraction of the time which is now expended on many of them, and the benefit to suitors would be very great. There would, indeed, be exceptional cases, but they are comparatively few, and in

these the usual pleas might be filed, always with permission from the Judge to that effect, as is now the custom, in certain instances, when leave is obtained for taking *enquiries* in writing. To facilitate the adoption of this scheme, it were probably desirable that a separate tribunal should be provided for the decision of commercial suits, or rather that one or two of the Judges of the Supreme Court should have exclusive original jurisdiction in such cases, performing the functions of the old Consular Judges in France, and who cut so conspicuous a figure in French jurisprudence, and in the edicts and ordinances of the ancient *regime*.

We, in the meantime, offer the mere outlines of this scheme to the consideration of the mercantile community, leaving accidents and details which we may enter on upon a future occasion, but which might now rather confuse than enlighten the reader's comprehension of the subject. But of this we are convinced, after giving the matter considerable attention and study, namely, that the reform we advocate would be of immense advantage to that large class of our citizens whom it chiefly concerns—our merchants and traders in whose welfare that of the whole country is so deeply involved.

## VALUE OF AGRICULTURE IN NEW BRUNSWICK.

A VERY general impression is that New Brunswick is not an agricultural country, and that whatever importance it may possess, is due to its extensive forests, and that when they are exhausted, the country must necessarily decline. It is quite true that it is to the large sums, annually realized from this source that its people have to rely for payment of whatever they require to import, and that breadstuffs form no inconsiderable proportion of those imports, the last year's transactions with Canada may well prove. But for all that we are inclined to think that its capabilities and importance as an agricultural country have been very much underrated, and that although accidental circumstances have given to lumbering the pre-eminant position, yet that behind that, lies the basis of permanent and enduring wealth in the shape of a fertile soil, with capabilities of no ordinary kind, and by no means so severe a climate as is ordinarily supposed. It is true that the land in the immediate vicinity of St. John, and, indeed, all along the Bay of Fundy shore, is very poor and rocky, but a person who should form an opinion of the agricultural capacities of the Province from anything that he might see there, would form one very far wide of the truth. Let him take a run up the railway through Sussex Vale, or, better still, penetrate the interior of the country to the head waters of the river St. John, and he will come to a very different conclusion. Here he will find numberless beautiful islands, fertile intervals, and extending far back from the river on either side large tracts of splendid upland, the capabilities of all only half-developed from want of speedy communication with a market, and the fatal and too common practice of associating farming and lumbering operations together. Here, too, that scourge of many Western districts, fever and ague, is utterly unknown, and the climate altogether is unusually healthy and conducive to longevity. Numerous streams flow in every direction, and no where in the world is there a more abundant natural supply of the purest water to be found. Wheat, it is true, is but little grown, but hay, oats, buckwheat, rye, barley, potatoes and beans, are certain crops, and to these might and ought to be added hemp and flax, for which the soil and climate are admirably adapted. As might be expected with these productions as a basis, stock is raised with facility, and it is in this direction that the greatest advances have lately been made. Within the last few years large drives of fat cattle and sheep have found their way from the upper sections of the country to the United States, being mostly taken on foot by way of Bangor to the Boston and New York markets. The improvement in breeds (especially in sheep) has been very remarkable, and altogether this trade goes a long way to account for the prosperity of the farming interest of the upper country. We have before us the annual report of the Board of Agriculture of the Province, in which we find the following statement:—

Estimated value of cattle, stock, implements, machinery and home manufactures, including value of farming lands	\$16,337,631
Value of manufactures, registered ships, minerals and fisheries	9,063,428
Balance in favor of agriculture	\$ 6,273,603

From the Census returns of 1861 we find the occupations of the population thus distributed:—

Professional	1,501
Trade and commerce	3,141
Agriculture	35,091

The value of farming lands is estimated above to be stated at \$31,337,631.

A large proportion of those represented as engaged in agriculture, are perhaps equally interested in the lumbering pursuits, but sufficient has been shown to make it apparent that neither the agriculture of the Province or its capabilities are so insignificant as is commonly supposed, and that even if its present supply of lumber should fail, there still remains a source of enduring prosperity. Below is a statement of the productions of one of the smallest counties of the Province (that of Carleton) for the year 1865, which we think will surprise some of our readers:—Wheat, 40,000 bush, barley, 5,000 do, rye, 8,000 do, corn, 5,700 do, 1,000,000 do; buckwheat, 210,000 do; hay, 65,000 tons; beans, 35,000 bu., peas, 7,500 do, potatoes, 240,000 do turnips, 75,000 do; carrots, 6,000 do; butter, 40,000 lbs; cheese, 30,000 do; wool, 50,000 do; number of cattle, sheep and horses, not stated.

## THE DELORY GOLD MINING COMPANY.

AT the annual meeting of this company, held in Quebec, on the 11th inst, the second annual report of the Directors was read, also statements of the Treasurer, and General Manager, together with a synopsis of a lengthy Geological report prepared by Prof. H. Y. Hind.

The Treasurer states that there are two sets of books kept by the Company, one in New York, the other in Quebec, where the chief office business of the company is now transacted. The Quebec books are kept on a gold basis. He also states that all the stock has been subscribed, with the exception of 15 shares of the first issue, and 316 shares of the second issue. The accounts furnished by the Treasurer show the total receipts from August 2, 1866, to June 30, 1867, to have been \$59,653.82, and the disbursements \$60,000.00.

The assets are set down as \$9,763.25, of which Mining Rights represent \$9,720,031—and the liabilities as \$7,713,032, of which \$7,652,795 are for the various issues of capital stock.

Mr. Winchell, General Manager, in his statement, informs the Directors that his official duties commenced on January 3, 1867, that the remainder of that month was employed in preliminary work necessary to determine the best practical policy to be pursued; that in May, the office in Quebec was completely organized, a crushing mill furnished and made ready for work, and a quantity of rock prepared for treatment; that on the morning of the 1st of June, work commenced, and been regularly continued to the present time, that it had been chiefly carried on not for profit, but to test the value of the various ledges of quartz, of which some half-dozen lots of from three to twenty tons had been crushed, yielding in every instance more or less amalgam, and in several instances giving evidences of decided value; that the experiments made were under most unfavorable circumstances, and the results more encouraging than there was any right to expect; that in June arrangements were made with the Reciprocity Company an organization of American capitalists—by which an end was put to trespasses on the alluvial property of the Delory Company, by which the title of the latter company to all minerals within these limits was fully admitted by the Reciprocity Company, that a large amount of detail work had also been done during the half-year, including the purchase of some 600 acres of land near the mill, and arrangements for its utilization, the construction wholly or in part of indispensable buildings, and the sale of alluvions to the amount of several thousands of dollars. The General Manager strongly recommends that the operations of the ensuing year be continued on the experimental basis already inaugurated without any thought of profit, for the reason that the practical knowledge of the company's property to be acquired by such experiments was of absolute necessity, when the extent of that property was taken into consideration.

The following is the synopsis of Professor Hind's report:—

The structural arrangement of the rocks in the south-east part of the property is shown to consist of a number of beds into which the strata have been thrown by a force acting from a southerly direction. During these disturbances, one set of strata appears to have slid more or less over the underlying rock, and to have produced a series of fractures sometimes continuous for considerable distances, and now filled with quartz