legal lore, but with a large fund of general information which cannot but make him a most useful member of the Upper House.

We look upon this appointment as the establishing of a happy precedent. A retired judge, whether of the County Bench or Superior Court, in many instances will preserve sufficient mental vigour and physical strength to discharge the duties of a legislator—especially in the less partizan atmosphere of the Upper Chamber of our Dominion Parliament. The appointment of Judge Gowan opens up a new and useful field for men of this class in which the ripened experience and trained abilities of some of our ablest judicial minds may find congenial occupation, and at the same time afford an honourable and fitting termination of advantage to the step to many eminent careers.

EXAMINATIONS FOR DISCOVERY.

At the trial of a recent case, *Clark* v. *Loughead*, before Ferguson, J., in the Chancery Division, that learned judge took occasion to make the following remarks on the above subject:—

"There was a law before the time of these present special examinations, whereby discovery could be had for the purpose of guiding people in framing their suits and defences in order to get the proper matters before the Court for trial; then the case was tried upon the evidence.

Now we have discovery extended to such an extent that the examination in most cases makes the brief for counsel, and trials are extended to an enormous length, without getting any nearer the truth by preliminary examination.

I think that is the result of my observation, and I know it is the opinion of a great many others. Now I have on an average 200 to 300 cases to try every year—over 200. Here is a case involving $110, to get the money out of property, the balance of which is not very large over the mortgage that is upon it, and if it requires two days, or two and a-half, to try this case, how can the work ever be done? I shall have to consume 800 or 900 days in every year in order to do the work.

These examinations certainly do not aid, to the extent that is supposed, in getting at the truth. After all that may be said about what a witness has said before another tribunal, or another man taking the examination, and how he or she may recollect what was said then, without an opportunity of observing the circumstances under which certain answers were made to certain questions put, there is not the light afforded that many seem to suppose.

The great bulk of the matter on which the determination must take place is what proceeds from the witnesses, in presence of the judge who is to try the case. This is running out so far that it is impossible to try a docket of many cases at all; one docket might take a whole year; one counsel has as good a right to avail himself of it as another. It is the law that it may be done, but it will come to a deadlock in doing the business of this country. I am not alone in these views."

The original of the modern practice is to be found in the written interrogatories, which formerly constituted a part of a bill of complaint in Chancery. These interrogatories were often very voluminous, and had to be exceedingly minute, so as to compel an explicit answer to the matter, as to which discovery was sought, and prevent the possibility of evasive answers being given. The answers to these interrogatories were framed by counsel, and although sworn to by the defendant, it is to be feared were often expressed in a way that the defendant would not have expressed himself if orally interrogated. In order to get over the manifold inconveniences, expense, delay and trouble, involved