

of 35, five more than for England, if you leave out of reckoning the Lords Ordinary, and the four paid members of the Judicial Committee of the Privy Council.

The augmentation of this mass of judges by a judge for each District of Lower Canada is appalling, and to give him something to do it becomes necessary to treble the judges at every point, and to oblige three to hear the evidence. What control can three have on the admission of evidence? The latitude allowed will be in the measure of the least quick-witted on every question, and thus one of the most formidable difficulties in the expedition of cases will be largely increased.

The pomp and circumstance, which should perhaps surround the judicial dignity, is the substantial return we are to have for all this expense and confusion. I do not think any thing in this direction will be gained by sending three judges instead of one to obscure villages where there is no decent accommodation to be procured, and where the whole *mise en scène* is the reverse of imposing. Before setting up a Court in any locality it would be perhaps a wise precaution to enquire whether there is a proper place of residence for the judges and advocates. When acting for the Attorney-General on one occasion, I discovered that I was to dine at the same table with a man I was going to prosecute for murder, and it was with some difficulty I avoided this impropriety. When an assistant judge of the Superior Court, I frequently experienced difficulty in making suitable arrangements, without rendering them conspicuous, and consequently offensive.

Again, it is not easy to understand how the three judge system is to overcome the evils of isolation, since the judges are to remain constantly (and this is vigorously insisted on) in their respective Districts, except while holding their Courts elsewhere. But the best answer to the objection to the three judge system is to be found in the report itself. It is noted that a great number of cases will still be left to the decision of one judge. In addition to this the judges have the power to send any case before one judge, when they think the interests of justice will not suffer. That is, the law gives the suitor a tribunal of three judges, and allows the judges to convert it into a Court of one judge. If the judges, to lighten their own

work, may do just what the law now does, what is to become of the effect supposed to be produced by the three cocked hats on the Bench?

The novelty of such a free and easy system is not more striking than its imperfections. Tossing about a case from one jurisdiction to another would give opportunity for endless confusion.

We have pompous allusions to *l'hierarchy judiciaire*, as though it were of importance to observe it, yet the whole scheme of the proposed code seems to be devised in order to mutilate or destroy it. One of the means to be adopted is to give the County Court judge a right to sit as a judge of the Superior Court. This appears to me to be highly objectionable. If he is considered fit to do the Superior Court work one day, he is so the next, and it is to set at naught all ideas of judicial hierarchy to put him for an instant on a level with the judge of the higher Court.

It is quite possible the judge of the inferior Court may be an abler man, and a better lawyer, than the other, but this is not the presumption of the law, or the view usually sought to be impressed on the public mind, neither as a general rule will it be found to be correct. Men who accept inferior positions do so because they feel themselves unequal to greater fortunes, or, because they have got a timely hint that the public opinion points that way.

The objection to allow lawyers to hold civil Courts appears to me to be still greater. I am not aware that it is done in England, and an English example in this direction would be no guide to us. An English lawyer is a barrister, he has no permanent client; the lawyer here is advocate and attorney, and consequently he might be called on at any moment to decide an important question affecting some one from whom he had great favours to expect. However, it is hardly necessary to discuss this matter in dealing with the report. The appointment of judges cannot be regulated by a local law, and the device of giving the matter the appearance of a regulation of procedure does not alter the question.

I confess to a sense of bewilderment in reading the latter part of the Commissioner's commentary on Art. 1. Where does he find more than two degrees of jurisdiction besides the ap-