

MR. JUSTICE SMITH.

ON Monday, the 19th day of January, died one of the finest men who ever adorned the bench of any court of law. He died because his duties were too heavy for his strength; and because he regarded the discharge of his duties as of greater importance than the preservation of his health.

The unflinching courage of the soldier who yields his breath rather than his post, is worthy of the highest admiration, for his employment requires the sacrifice. But we humbly submit that there is no implied term in a judge's engagement which demands his death rather than the acknowledgment of *vis major*—the *vis inertia* of too many tangled law suits. It is impossible seriously to blame a judge for working too hard. He can have no selfish object in view—his salary is not affected by the quantity of his work, nor his repose in any way assisted by it. If his labor is excessive it is because he is constrained to it by the demand for the speedy administration of justice, and by a restlessness under the thought of work undone, and, therefore, of wrongs unredressed. But can we not fairly blame the government which, to save a paltry \$4,000 a year, presents to our judges the alternative of heavy overwork or heavy arrears. We should hardly have said *an alternative*, for there is in practice no choice or selection. The judges have both the work and the arrears.

Mr. Justice Smith has been with us only a few months, but during that time he has won the respect and admiration of every member of the bar, not only for his legal ability and attainments, but also for his kind and courteous bearing. His mind was singularly acute, subtle, and logical; and his knowledge of the law accurate and extensive. He evidently enjoyed discussion, and he never seemed so well pleased as