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OUR ENQUETE SYSTEM.

Those of our readers who were present at the rendering of judgments in Montreal on the 29th of October, heard a great deal about the mode in which *enquêtes* are too often conducted, and the style in which depositions are reduced to writing. In fact hardly a term goes by without complaints from the Bench respecting the needless multitude of badly written depositions, which the judges are compelled to wade through in search of the facts bearing upon the issue.

These complaints naturally lead us to revert for a few moments to certain correspondence which appeared in this Journal about two years ago. In October, 1865, a forcible writer, and a lawyer of high standing, signing himself "Q." (Vol. 1., p. 48), commented in the severest terms upon our Enquête system, recommending that all causes of importance, where facts have to be appreciated, be tried before a jury. This was followed in the January number of 1866, (Vol. 1. p. 78), by a communication signed "Q. C.," from the pen of one of our most eminent Queen's Counsel, in which the entire abolition of the Enquête system was urgently advocated.—"If each case," wrote 'Q. C.,' "were tried "before a judge in the same way that a case "would be tried before a judge and jury,—*not* "*here*, (for we have, unfortunately, engrafted "on our trial by jury, a bastard system of "*enquête*), but as in England, the United "States, Upper Canada, and in fact every "part of the civilized globe, where the system "of trial by jury is practised, *the judge him-*"*self taking full notes of all the essential* "*points of the evidence*, — I venture to "assert that justice would be more promptly, more correctly, and in every respect "better administered, than it either is or "could ever be hoped to be under a system so "peculiarly Lower Canadian as ours is."—'Q. C.' concluded his remarks by inviting the criticism of the profession upon his suggestions, but to this day no one has had a word to say in defence of or apology for the existing system. It is a fair presumption, therefore, that the system is really indefensible, and that a usage, worthy only of the dark ages, is adhered to from a blind regard to the practice of our predecessors.

Lawyers are naturally conservative, and very properly so. Great changes should not be lightly made, nor without the most careful inquiry and consideration. But adherence to the old track should not be continued too long, and the time has now arrived when the demand for an inquiry into our enquête system must be made, and be made with urgency. Legislation on the subject might fitly be preceded by a commission for obtaining evidence of the working of the present system, and ascertaining the views of the bench and leading members of the bar, though we doubt whether the evil is not too palpable to be disputed.

THE COURT OF APPEALS.

In the report of *Lacombe* v. *Dambourgès*, printed in the present number, the reasons assigned by the Hon. Mr. Justice AYLWIN for his resignation, are included as a matter of historical interest. It is only right to complete the record by the insertion of the official statement promulgated by the other members of the Appeal Bench on the day following Judge AYLWIN'S announcement. The statement was first made verbally by Mr. Justice DRUMMOND, and was we believe, reduced to writing under the supervision of the Court, a copy being sent to each of the daily newspapers. It is as follows:—

Mr. Justice DRUMMOND: "The causes of the delays which are complained of ought to be attributed to the Executive, who neglect, we know not for what reason, to provide an efficient remedy for the actual state of things, which I have had occasion to notice myself. The term commences at Montreal on the first of the month, and finishes on the ninth. It is necessary that the judges hasten to Quebec to open the Court, which lasts to the 21st.—Now it happens that whilst the roll in Montreal is ordinarily heavy, it is nearly always light at Quebec. My colleagues know also,