in this country practically to follow it out. If, however, the principle of promotion is to be adopted, we are willing to stake our reputation on the statement that of all the available men now on the Canadian Bench, the one who would inspire the public with the greatest confidence in the new Court, and popularize its decisions, would be the present Chief Justice of Ontario.

We do not here refer to the learned and accomplished Chief Justice of our Court of Error and Appeal. His great learning and experience, his courteous dignity and keen intellect would have added lustre to the high position; but we can well imagine that he may soon hope to be relieved from judicial labour, so that he may enjoy for the rest of his life that repose which long years of ceaseless work have so well earned.

Without, however, further discussing the *personnel* of the Court, as to which we may hereafter advert, we propose to say a word or two on the changes in procedure which will be necessitated by the establishment of this Court. The Legislature has laid down an important principle in the Act constituting the Court, whereby the right of election as to the *forum* of appeal is given to the suitor; and having made his choice, he is restricted to that as his only court of final appeal. The principle is that of abolishing successive appeals, and rendering the appellate courts, courts of alternative appeal. The litigant having the judgment of the highest provincial courts against him, is obliged to elect whether he will carry his appeal to Ottawa or to England—to the Supreme Court or to the Judicial Committee of the Privy Council.

There are weighty arguments against the course which was taken by the Legislature on this branch of the subject, and many eminent men are entirely opposed to the principle involved, and the constitutionality of the clause in question has been doubted, but there are, nevertheless, some practical advantages which are very apparent, and this at least may safely be said, that such a change, restricting the right to litigate, might beneficially be extended to other courts in the Provinces. For instance, where is the wisdom or benefit of forcing (as is now done by statute) a suitor in Chancery, after having the solemn judgment of one judge, to re-hear before three, as a condition to being allowed to take his case to the Court of Error and Appeal for Ontario? The principle of alternative appeals might be introduced here, or perhaps better to abolish re-hearing altogether as a condition precedent to the appealing of any cause.

It is only of late years that protracted litigation has been recognized as an evil. Though the maxim existed: "*interest reipublicæ ut sit finis litium*," yet the courts were tenacious of their jurisdiction. They were astute in getting rid of agreements to refer matters to arbitration, on the ground that parties could not oust the courts of their jurisdiction. But so completely have affairs been reversed, that we find Lord Justice James using the following remarkable language in *Willesford* v. *Watson*, L. R. 8 Ch. Ap. 481: "With regard to one argument pressed upon us, that we ought not to send the matter to arbitration, because the arbitrator would decide without appeal, I can easily conceive that two sensible men may possibly have had that in their view, and that they would prefer even running the chance of the arbitrators making a mistake to having every matter brought into a court of law, or into the Court of Chancery, to be heard before a Vice-Chancellor, with an appeal to this Court, and then perhaps an ultimate appeal to the Lords. I can conceive that sensible men may prefer an arbitrator even to being at liberty to carry one another through litigious proceedings in three successive courts."