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CURRENT TOPICS AND CASES.

In *Ogilvie v. Farnan*, M.L.R. 5 S.C. 380, the Court of Review at Montreal, held that the effect of a judicial abandonment made by a debtor in prison under *capias* is to entitle him to his liberation; and the Court has no power to detain him after he has undergone the imprisonment imposed for fraud, on contestation of his *bilan*. This decision has been still further extended by the recent case of *Chartrand v. Campeau*, also decided by the Court of Review at Montreal, on the 30th September last. In the latter case the Chief Justice, and Justices Jetté and Pagnuelo, sitting in review, affirmed the decision of Mr. Justice Taschereau, holding that Article 793 of the Code of Procedure, which says that a debtor may obtain his discharge by the abandonment of his property, applies generally to all coercive imprisonment, including that imposed by Article 782, *i.e.*, for *rebellion à justice*. This decision is as broad as possible. In *Chartrand v. Campeau* the judgment of coercive imprisonment, ordering the defendant, in the terms of Article 782, to be imprisoned until he should satisfy the judgment, had been rendered after he had made an abandonment of all his property, but the *bilan* was being contested at the time on the ground of fraud, and before the defendant petitioned for

his liberation he had undergone a sentence of ten days' imprisonment for fraud. "As our law now stands," the Chief Justice observed, "the relief of debtors and the punishment of fraud have been substituted for life imprisonment, while, at the same time, the creditor's rights extend to a complete discussion of his debtor's property, and to keeping him in the jurisdiction for that purpose."

The case originally submitted to the Ontario Court of Appeals by the Government of Ontario, with regard to the power of local legislatures to pass prohibitory liquor laws, has now, with the consent of the Minister of Justice, been placed before the Supreme Court of Canada, and may be argued next month. The case is as follows:—

1. Has a provincial legislature jurisdiction to prohibit the sale, within the province, of spirituous, fermented, or other intoxicating liquors?

2. Or has the legislature such jurisdiction regarding such portions of the province as to which the Canada Temperance Act is not in operation?

3. Has a provincial legislature jurisdiction to prohibit the manufacture of such liquors within the province?

4. Has a provincial legislature jurisdiction to prohibit the importation of such liquors into the province?

5. If a provincial legislature has not jurisdiction to prohibit sales of such liquors, irrespective of quantity, has such legislature jurisdiction to prohibit the sale by retail, according to the definition of a sale by retail either in statutes in force in the province at the time of Confederation, or any other definition thereof?

6. If a provincial legislature has a limited jurisdiction only as regards the prohibition of sales, has the legislature jurisdiction to prohibit sales subject to the limits provided by the several subsections of the 99th section of "The Canada Temperance Act," or any of them?

7. Had the Ontario Legislature jurisdiction to enact the 18th section of the act passed by the Legislature of Ontario in the 53rd year of Her Majesty's reign and entitled "An act to improve the Liquor License Acts," as the said section is explained by the act passed by the said Legislature in the 54th year of Her

Majesty's reign, and entitled "An Act respecting Local Option in the matter of liquor selling."

The calendar for the January term of the Court of Appeal at Montreal shows a slight falling off, the list having dropped to 99 cases. It may be observed that the attorney-general has not been quite accurately informed as to the arrears in this Court. He states that an appellant must wait two years after a case is inscribed. One year would be nearer the mark. There are five terms in the year; the 99 cases now inscribed would occupy about four terms, and the privileged cases interposed take portions of time equal to another term. So that the actual delay is about one year. After cases are heard judgment is always rendered very promptly.

Mr. Crankshaw's elaborate and valuable work on the Criminal Code of Canada has been published by Messrs. Whiteford & Theoret, of Montreal. We shall notice it in our next issue.

THE RE-ORGANIZATION OF THE COURTS.

The following is the conclusion of Attorney-General Casgrain's observations (see p. 16 *ante*):—

At present it is often said—I do not say rightly said, but the impression is rather general—that the Court of Review is more a court of confirmation than of revision; that is to say, that, owing to I know not what chain of circumstances, the judges of the Court of Review are much more led to confirm the judgments of their colleagues than to reverse or modify them. Now, when an appeal is taken from the judgment of a District Court judge to the Court of Review, there will no longer be amongst the members of the various courts that fraternity, if I may so express myself, which exists between those who compose the same court. There will perhaps not be more independence, but, at least, there will perhaps be a little more independent action when judgments rendered by District Court judges have to be reversed or modified. It is true that the Court of Appeal so constituted by the bill consists of only three judges. But let us see what happens in the Province of Ontario, which is often quoted as a model province, and which, in many respects, is admirably managed in all public and judicial matters. In Ontario the Court of Appeals for

cases in which the largest amount is at issue consists of only four members, and I say that, for cases of $400 or less, a Court of Appeals consisting of three judges constituting an independent tribunal is sufficient.

Appeal from the Court of Review.

When the judgment of the Court of Review sitting in appeal from a judgment of a District Court is not unanimous, an appeal may be taken from the Court of Review to the Court of Queen's Bench. I admit that I had some hesitation in introducing this amendment. I am not yet decided to state—I am not yet sufficiently convinced to be able to say—that this is a wise provision, because I am of the opinion of many authors who have written on this subject, and who say that the number of appeals and the number of the degrees of appeal should be reduced. But that is a question on which there may be a difference of opinion, a question on which something may be said both for and against; it is a question which I submit for the serious consideration of those who will have to study the bill. I say that, not only in virtue of the bill which I have just explained will the appeals from the District Court render a service to suitors, but the law will have the effect of greatly reducing the number of appeals now taken before the Court of Queen's Bench, and will give greater efficiency to the Court of Queen's Bench, and will allow it to better fill the role which it is called upon to fill in the judicial organization of this province.

District Judges in Criminal Matters.

Now there is, in the constitution of the District Court, another very important matter to which I specially call the attention of the members of this House. According to section 47 of the bill the District judges have jurisdiction throughout the whole Province of Quebec, but exercise their ordinary judicial functions in the districts assigned to them by their commissions; and they further have all the powers and exercise all the functions mentioned in articles 2485 to 2544 inclusively of the Revised Statutes of the Province of Quebec. If you refer to section 107 you will see this: "As district judges are appointed in the different districts, the judges of the sessions of the peace, district magistrates and stipendiary magistrates shall cease to exercise their functions." That is to say, sir, that I give the district judges all the powers of district magistrates in criminal matters and all the powers of judges of the sessions of the peace, in Quebec and Montreal. A considerable economy will result from this. At present the expenses of the province for district magistrates, travelling expenses, etc., for the salaries of judges of the sessions of the peace, amount to $30,000. But what happens? Every day I receive petitions and letters asking me to establish magistrates' courts, asking me even to appoint other magistrates for regions distant from the *chef lieu*, like those I mentioned just now, and I have no hesitation in saying that if the present system continues, in three or four years we will be obliged to appoint other district magistrates, and to give them further powers, to meet the ever increasing wants of the public; and the expenditure under

this head will amount to $50,000 per annum, at least, and will go on increasing. There is also another consideration, and that is that the present salary of the district magistrates is not sufficient. The salary of these magistrates who, after all, are called upon to exercise important judicial functions in criminal matters, is not sufficient. It is only $1,200, and this has been so understood that for seven or eight years it has been necessary to indirectly increase the salary of the district magistrates by giving them travelling expenses of from ten to five dollars a day, which greatly increases the expense of the administration of justice. I do not say that it was wrong to do so. I believe, on the contrary, that it is impossible to get a competent man to perform judicial duties of such importance for the small salary of $1,200 per annum. We will therefore be assuredly compelled to increase the salary of these magistrates if they are to continue to exist, or we will be obliged to replace them by other magistrates or other judges, and I think the plan I propose is the best. Now, if this expenditure is to be $50,000 per annum, as it will soon be, I ask myself why the Province of Quebec should pay the expenditure in question. We complain so much of the expense we incur. We clamor so much for economy. We endeavor by every means to reduce our expenditure. Now, here is a favorable opportunity for reducing the expense of the administration of justice by $50,000; because, as everyone knows, sections 96 and 100 of the British North America Act say that it is the Federal Parliament which appoints the judges and pays their salary. I therefore ask myself why, in view of that provision of the British North America Act, the Province of Quebec should be obliged to pay $50,000 for the administration of criminal justice. Thus, those who are in favor of economy cannot but say that, in this respect at least, the bill is a good one.

Now we have to consider how the bill is to be put into effect. In 1857, when the great statesman whom everyone admires, Sir George Etienne Cartier, introduced his measure for the reorganization of the law courts, it was comparatively easy to put the reform into practice. At that time the question was to appoint new judges, and, as everyone is aware, candidates for judgeships were not wanting any more in 1857 than they are now. Consequently, it was rather easy to appoint new judges. At the present time the question is to reduce the number of Superior Court judges from 30 to 16. If we wish to put the law into execution we would have to decapitate 14 of those gentlemen. Now, it is quite sure that they will not submit to decapitation without making considerable resistance. It is for that reason that one of the provisions of the bill, section 112, says that the act shall come into force by proclamation of the Lieutenant-Governor-in-Council. As soon as the proclamation is issued, this is what will happen: In the districts of Montreal, Quebec and Sherbrooke, as well as in the district of Terrebonne, whose judge will be transferred to Montreal, and in one of the districts near Quebec, whose judge will be transferred to Quebec, the law will come into force at once. District judges will have to be appointed at Quebec and Montreal, who will at once commence to perform their judicial duties. The district judges at

Montreal and the district judge at Quebec will replace the judges of the Sessions of the Peace and exercise the same functions of the judges of the Circuit Court exercised at Montreal and at Quebec, which functions are, by the bill, assigned to the district judges, as well as in the district of Terrebonne, and in one of the districts of the Quebec division, whose judge shall be transferred to the city of Quebec. The number of judges in Montreal will be considerable for some time; but it must not be imagined that it will take long for the law to come into force everywhere. Every one knows that, from ordinary causes, judges, like others, disappear pretty rapidly. Thus, the other day, a judge said to me: "I was appointed judge seven years ago, and already the majority of the judges are my juniors." As only twelve judges will remain, the law will come into force pretty soon. Now, while the ten judges of the Superior Court sit in Montreal they will not be obliged to go on circuit in many districts, and this will, in consequence of the increased number of judges, remove the congestion which now exists in the Enquête and Merits Court in Montreal, where considerable delay occurs at present.

The Court of Queen's Bench.

In virtue of the bill which I will introduce, the Court of Queen's Bench may sit with the assistance of some of the judges *ad hoc* or as assistant judges. As this court may sit in two different places, this will remove the congestion which exists in the Court of Queen's Bench, because if the Court of Queen's Bench were to sit at Montreal for two years it would barely be able to get rid of all the cases now inscribed before that court. Now, when in each district a vacancy occurs in the Bench of the Superior Court, such vacancy shall not be filled up, but the district shall at once come under the operation of the law which appoints district judges. Thus, let us take, for instance, the district of Montmagny. Let us suppose that the judge in the district of Montmagny, for one reason or another, ceases to exercise his functions there, either because he is removed by death or is promoted to a higher position. Immediately, under the law, the Federal Government will be obliged to appoint a district judge for Montmagny, and the Superior Court of Montmagny shall be served by one of the judges of the Superior Court residing in Quebec. Meanwhile, as soon as the proclamation is issued, the principle of the law comes into force everywhere throughout the province, so that the judges of the Superior Court now existing and exercising their functions in each district shall continue to exercise their functions as judges of the Superior Court for cases of $400 and over, and the district judges shall have jurisdiction for all cases under $400, except as regards the functions of district magistrates, which shall remain the same until district judges are appointed.

I would observe, in passing, that cases for over $400 do not represent one-fifth of the work of the judges, while cases of $400 and under represent four-fifths of the work. I give four-fifths of the work to the district judges, whose number is greater; on the other hand, for cases over $400, which represent only one-fifth of the work, there are sixteen Superior

Court judges. Otherwise we would be obliged to appoint a Superior Court judge in each district. Now, in some districts there is not work for more than two months in the year, while in other districts there is work for the whole year and more. This is why, on the one hand, the number of judges for cases under $400 must be increased, while, on the other hand, a special court must be established for cases of $400 and over, a court which, sitting in review, shall be a court of appeal for the District Court.

Provision for Summary Matters.

But I was forgetting a very important provision of the law referring to the jurisdiction of district courts. I spoke a moment ago of judicial centralization and decentralization, and I said that all cases under $400, which, up to the present, were pleaded and judged at the *chef lieu* of the district, would so continue to be in future. But the answer may be made, as it actually was in a memorial addressed to me: "There are cases which come daily before the courts, motions, peremptory exceptions, *défenses en droit*, business in chambers, writs of prerogative, summary affairs, etc. What are you going to do about them?" I admit that in the most of the rural districts, writs of prerogative, questions between lessors and lessees, actions under the law of summary procedure, are pretty rare; but nevertheless, in order that nobody may accuse me of at all encroaching upon this question of judicial centralization, I declare in section 48 that in all these matters that I have mentioned, and which are enumerated in this section, the district judge has jurisdiction, subject to appeal to the Superior Court. This question is rather one of procedure, and more the subject of an article of the Code of Procedure. It may therefore be seen what a disadvantage it would be to pass this Act without at the same time adopting the Code of Procedure.

A Member—In summary affairs, will the district judge have absolute jurisdiction, and will there be an appeal?

Hon. Mr. Casgrain—The appeal will be before the Superior Court sitting in review and before the Court of Appeal as now constituted, or before both, according to the rules which at present exist in the Code of Procedure.

Changes since Last Year.

I have indicated, so far, in making the general *exposé* of the bill, the principal changes which are proposed in the measure that I have to present. But to enable the House to better understand and more fully seize the difference between the measure originally submitted and that which I will have the honor to lay before the House, and in order to show the care that I have taken to listen to the complaints and representations that have been made to me, I believe that it will be well to give in a succinct and definite manner the changes which exist between the original bill and that now submitted. There is first and foremost in the present bill, as I have already declared, a complete elimination of everything regarding the administration of criminal justice. In last year's bill, at the suggestion of parties who were well informed, and who had at heart

the perfect administration of justice, the province had been divided into six districts for the purpose of the administration of criminal justice. But the remark has been made to me that it would not be just to bring witnesses from a distance to a *chef lieu* for a criminal case, on account of the cost and the inconvenience, and that neither would it be just to drag a criminal from a distance to a *chef lieu* in another county, there to stand his trial, where he might not perhaps be judged by his peers. I understood the justice of this observation, and that the bill in this respect was erroneous, and this year I have left the administration of criminal justice exactly as it was under the old law. That is the first change contained in the new bill, and a very considerable one it is.

Judges and Terms of the Courts.

Now the complaint was also made that according to the bill of last year the terms of the court were fixed, not by proclamation of the Lieutenant-Governor-in-Council, as proposed by the present bill, but by a rule of practice made by the judges themselves. It was said, with some reason, that the judges, not always consulting the public needs, might fix the terms to suit their own convenience rather than that of litigants. This objection is a strong one, and in this year's bill it is provided that the terms of all the courts will be fixed by proclamation of the Lieutenant-Governor-in-Council. It was also said in last year's bill that the district judges would be appointed from amongst the lawyers of not less than five years' practice. It was thought by some that this was not a sufficient guarantee of the qualifications of men charged with important judicial functions, and it is now provided that ten years of practice must be one of the qualifications required of those lawyers who are to be named judges of the District Courts. Another notable change and one which relates particularly to procedure, is that which I explained a moment ago, namely, that the District Court judge has all the powers of a Superior Court judge in chambers; that is to say, that he may decide all questions between lessors and lessees, all those under the act of summary procedure, writs of prerogative, in a word all the questions that I had the honor of mentioning to the House a moment ago.

District of St. Francis.

There will be sixteen judges of the Superior Court instead of fifteen. There will be ten at Montreal, five at Quebec, and one at Sherbrooke. It was considered that the district of St. Francis was of such importance, and that so much business was transacted there, that it was necessary to leave a judge there. And besides, Mr. Speaker, the bill provides that when there is too much work for a judge in any district, another judge by proclamation of the Lieutenant-Governor-in-council may be sent by the Chief Justice to sit there. The number of district court judges for the city of Montreal is also increased. Another important change that I have already pointed out to the House is this: That in virtue of article 1054 of the Code of Civil Procedure as amended by section 75 of the present bill, the District court, in whatever locality it sits, has jurisdiction

up to the sum of $400. Last year we said that outside of the *chef lieu* the court would only have jurisdiction to the amount of $100. This year we increase it to $400 wherever it sits, even though it may be in two different localities in the same county, in order to give courts to the regions of which I spoke a moment ago, where they may bring their judicial affairs with the economy which they have a right to expect. There is, further, an appeal from the judgments of the District court. Last year we said that the judgment of the Court of Review would be final and without appeal, when pronounced upon an appeal from a judgment of the District court; but now, when the judgment of the Court of Review is not unanimous, the appellant may go to the Court of Queen's Bench. I have already pointed out this change.

City and Rural Judges.

And, finally, the last change in the bill has been made at the suggestion of the Bar of Quebec, and also of that of certain lawyers and judges who have written me on the subject. Last year, in the case of the death of one of the Quebec or Montreal judges, or of his disappearance for any cause, he was necessarily replaced by one of the country judges—a judge from the rural districts. That is to say that if, for instance, a judge died at Quebec, a judge was taken from one of the districts of the Quebec division and brought into the city. It has been represented to me that for the reasons that will be understood by those who are familiar with the administration of justice in this province, it was not altogether just that the Federal Government should be forced to name certain gentlemen judges in the cities. I have fallen in with this suggestion, and now, when the judges of Quebec or of Montreal will disappear the Federal Government may name the one that they may deem proper to fill the gap. Besides, Mr. Speaker, in thinking of it a little I am not sure that I am able, under the constitution that governs us, to impose upon the Federal Government the obligation of naming such or such judge to such or such locality.

Objections to the Bill.

I now come to the most interesting portion—if I may say that there is an interesting part—of my speech. It is that which concerns the objections made to the bill. These objections were naturally based on the bill which was presented to the House last session, which was that which was given publicity to. It could not be otherwise. People could only criticize what they had before them. The objections made were of two kinds. There was a general objection to the principle of the bill, and there were objections to certain details. I will say, without, I believe, flattering myself too much, that I have replied to all the objections of details that are made to the bill. I will go even further and say that I have incorporated in the bill all the suggestions contained in the memorials which have been sent me by the different sections of the Bar opposed to the measure. The bill has been corrected; it has been amended upon the strength of the memorials sent

me, and I believe that all the remarks that have been made upon it have been taken into consideration. Now, the great question, that upon which opponents of the measure have fallen back in order to fight the bill—the question above all upon which the opposition is made—is this: They say that judicial decentralization was established in 1857, and that this decentralization ought to continue; that my bill destroys it; that it strikes a blow at the principle of decentralization; that it overthrows the tribunals of the country and unites in the large cities the different judicial jurisdictions, and that in consequence the measure is not acceptable to the litigants of the province, and, above all, to those of them who live in the rural districts. I believe that after the explanation that I have made of the general plan of the bill, nobody will any longer be of the opinion that I am striking a blow at the principle of judicial decentralization. I have proved that the Superior Court will sit, according to the bill in question, in each *chef lieu* of district where it now sits, and I draw the attention of the members to this fact. Finally, I say this: judicial decentralization does not consist in the residence or non-residence of the judges. Decentralization does not consist in the fact that you send a judge to reside in each district. The system may possess some advantages, but, Mr. Speaker, judicial decentralization consists in the fact that the judge goes, so to speak, to the home of the pleader, visits his home, to hear there his complaints and the claims that he has to prefer. Decentralization consists in disseminating as much as possible, in all parts of the province, the administration of justice. Decentralization consists in the hearing of cases in the *chef lieu* of the district of the litigant, in the *chef lieu* of his county, in the parish in which he resides, even, if that is possible. This is what should be understood by judicial decentralization. Now, it is not because I say in the bill that the sixteen judges of the Superior Court shall reside in the city of Montreal, or of Quebec, or of Sherbrooke, that I interfere with the principle of judicial decentralization. No, because I respect the principle of the bill of 1857, in virtue of which it is said that the judges must hear cases, hear witnesses, hear the pleadings and render judgment in the *chef lieu* of each district. I go further. Not only will we have a Superior Court in each *chef lieu* of a district or county, but in large counties like Ottawa, Terrebonne, Nicolet and Rimouski we will have district courts which will have jurisdiction up to the sum of $400. And I ask those who are in favor of judicial decentralization to aid me in pronouncing in favor of the bill, if they are really in favor of the dissemination of the administration of justice in all parts of the province that have a right to it. There are interesting figures to be given on this question of judicial decentralization and of the residence of the judges. There are to-day thirty judges of the Superior Court in the Province of Quebec. The residence of ten of these judges is fixed at Montreal, as everybody knows, and the residence of four others is fixed at Quebec. There remain then sixteen judges for the eighteen other districts. Now, the following districts have no resident judges, namely, Terrebonne, Joliette, Beauce, Montmagny, Rimouski, Saguenay and Richelieu, in all seven. There are then seven districts which have no

resident judge at all, and there are only eleven districts that have resident judges, and again, of these eleven, my friend, Mr. Globensky, who has written such interesting letters on the question, says that five of these judges sit almost continuously in Montreal. There only remain, then, under the operation of the actual law, six judges who reside actually and effectively in their respective districts.

Thus, then, Mr. Speaker, in requiring these judges of the Superior Court to reside at Quebec, at Montreal, and at Sherbrooke, I do not destroy what is to-day existing, and I do not lay a sacrilegious hand upon the principle of judicial decentralization, because if people are satisfied with the present system—only six judges residing effectively in their districts—and, consequently, if people do not complain of it, it is a sign that judicial decentralization does not essentially consist in the residence of the judges at the *chef lieu* of their districts.

Mr. Tellier—In Joliette and in Richelieu, as a matter of fact, the judge does not remain in the district, though the law obliges him to reside there.

Hon. Mr. Casgrain—I am glad to hear the remark of my learned friend from Joliette, but I will ask him if he is able to imagine a law which will force the judge to reside effectively in a district. Can he imagine a law with which the judge will comply? It is well known that in the case of certain judges—I do not speak of those existing to-day, I speak of those who have disappeared from the scene—an attempt was made to compel them to remain in their district. Well, what happened? They rented a house in the district in which they should reside, and put their name on the door, but they lived for the greater part of the year either at Quebec or Montreal. The law, as it at present stands, obliges the judge to reside in his district; but ever since it has been in our statutes it has been a dead letter and incapable of being applied in practice. Those who have preceded us have tried to apply this law, but they never succeeded, and I don't think that any one ever will succeed in doing so, because it is one of those laws which, although they may be written in the statutes, no one can ever expect to see observed.

A Member—"Then it will only amount to the same thing."

Hon. Mr. Casgrain—It will not amount to the same thing with my law, and for this reason: That the judges of the Superior Court in rural districts tell us to-day: "We have not much work in our districts, while there is much work in Montreal, and, besides we usually come from the great cities, from Montreal or from Quebec." As a matter of fact, it is true that for one reason or another the judges of the Superior Court have been chosen from Montreal and Quebec. But I take this ground. Judges of the District Court receiving a salary of $3,000, being named specially for rural districts, and being chosen generally from among the members of the bar of rural districts, would have every interest in remaining in their districts, because their salaries would not be large enough to allow them to live at Quebec or Montreal, and in addition to this their tastes and their habits will cause them to live in the centre to which they have been ap-

pointed. There will no longer exist the pretext which to-day permits those who do not wish to remain in their districts to go to sit at Montreal or at Quebec. The pretext that the Superior Courts are encumbered will vanish, because I pretend that after the adoption of this bill there will no longer be any encumbrance either at Quebec or at Montreal, neither before the Superior Court nor before the Court of Appeals, and thus there will be no longer this pretext for country judges to go to Quebec or Montreal to sit. I know that to-day it is not only a pretext, but a weighty reason, and one cannot attack these judges because five or six of them sit at Montreal when they should reside in their district. They are called there by the Chief Justice, and they are almost obliged to go; they must go for the despatch of business. This reason, then, will no longer exist. You will have in each district what you cannot have at present, that is to say, a resident judge who will judge all cases brought before him.

Complaints against the Present System.

It is also said, Mr. Speaker, that there is no complaint against the present system, that no one complains of it, and that no one asks a change in it. I have heard this reasoning used by men who were certainly capable of criticizing the bill, who by their legal knowledge could study it with advantage, and who by the suggestions they made might improve it; but I must say that I cannot understand how this assertion could be made. Since I have been in the house (since 1886) I have always heard complaints against the administration of justice as at present carried on, especially in the district of Montreal. I have always heard it said that the present system, however well it might have served in 1857, did not now meet the wants of the people or of those having business before the courts. I have always heard this said. The law has been amended almost every session. Law upon law has been introduced into the statutes to improve the position complained of. To-day there are still complaints. There are newspapers in Montreal which are not favorable to the bill, and which said at the beginning of the session, that there were complaints, and serious ones, against the administration of justice. Some said that it was the fault of the Code of Civil Procedure; others that it was the fault of the judges. They may or may not be right, but I say that there are excellent judges at Montreal and at Quebec. There are perhaps some who are not what they should be. Take, for example, the ten judges of Montreal. I say that they are a good average and what men in general are, and I say that if you take ten men, I don't care from where, you will not find a better average than that of the ten judges of Montreal. I believe that certain judges do not do all the work they might do. I do not know this personally, myself; I am only repeating what is usually said. Nevertheless, I profess the greatest respect for the judges of Montreal, and I believe that whatever any one may say, no ten other men would do more work than the ten judges of Montreal. The judges are men, and men are always men, whatever may be the bills we may introduce and have adopted by this House.

As to the Civil Procedure, the bill, as I have said, is already distributed. We will try to remedy, as far as possible, the abuses which actually exist. But with the best code of civil procedure in the world you could not cause the disappearance of the trouble that exists at Montreal, namely, the obstruction of the courts. There are not enough judges at Montreal, while in other parts of the province there are far too many. Now, some one may say: "You have no right to legislate only for the city of Montreal. You must not take into consideration only the wants of the great metropolis of Canada, whatever its importance." To a certain point I differ from those who think thus. I do not mean to say that the legislation of this country should be subordinated to the interests of Montreal, but I do say that Montreal, from a financial standpoint, from a commercial standpoint, from the point of view of the population, and from the point of view of the judicial business of the country, has a right to all the solicitude of the Legislature. Now, sir, above all, from the point of view of the administration of justice, I say that we are obliged, if not to subordinate the administration of justice of all the province to that of the city of Montreal, at least to give to the city of Montreal the part which she deserves by the important position which she occupies in judicial annals. I will give the House some figures which will show to what a degree our solicitude for the city of Montreal in this important affair should actuate us.

Concentration of Business in Montreal.

Here are statistics for the past ten years, made, not by persons under the control of the Government, but by officers who are absolutely free to do their duty, and who are obliged to do it. During the last ten years there were issued from the Superior Court for the whole of the Province of Quebec 52,331 writs. Thus in all the Province of Quebec there were issued from the Superior Court 52,331 writs. Now how many do you think out of this number were issued from the Superior Court of Montreal? I was surprised and astonished at the number of writs issued from the Superior Court of Montreal, and this inclines me more than ever to say that I should come to the aid of the city which suffers the most from the existing state of affairs. The number of writs issued from the Superior Court of Montreal was 29,260. That is to say, that more than half the writs of all the Province of Quebec were issued from the Superior Court of Montreal. Now, let us take the judgments in contested cases. The Superior Court judgments in contested cases for the Province of Quebec amount to 16 220. Now for the city of Montreal alone, in the district of Montreal, out of this total number of 16,220 judgments there are 7,708. That is to say, again, the half of the judgments rendered in the Province of Quebec in contested cases. Now it is easily seen that if in certain districts the judges have hardly one, two or three months' work to do a year, the judges of Montreal district are so over-crowded with work that they cannot do it all and are obliged to call to their assistance the judges of the surrounding country districts, and even to call the judges of country districts lower down in the river than Quebec, and the

obstruction is such in the Court of Appeals at Montreal, that, as I said a moment ago, if you to-day inscribe a case at the Court of Appeals at Montreal you would be obliged to wait two years before being able to plead it. I say that this state of things cannot continue to exist. If you inscribe a case at Enquête and Merits at Montreal to-day,—by this procedure which ought to give you judgment as quickly as possible—you are obliged, if our information is correct, to wait nine months before you can have your case heard.

I ask you, can we tolerate such a system in this advanced age? Is this the despatch which litigation must expect in our Province of Quebec? I ask myself if we are not much more behind the times than all the countries surrounding us, and the European countries too on this question? I say that these abuses and this obstruction which exist in Montreal cannot continue, and, as long as I am Attorney-General, in view of the importance of the city of Montreal, I will work with all my might to make our judicial system the equal of others, the equal of the system of the surrounding countries. Now, sir, I declare that for twenty years there have been complaints of the system which at present exists in this province, and not only in Montreal but all over the province. I repeat that at least in a dozen districts there are judges who have not more than three months' work a year, while in the districts of Montreal, Quebec and Sherbrooke, the judges have more to do than they can accomplish. This is still another thing which must not continue to exist. This inequality in the distribution of work is an anomaly which whoever is solicitous for the best administration of justice in this country cannot permit to continue.

In 1880, Judge Pagnuelo, who was not then a judge, who, consequently had not then the interest in the matter that might be attributed to him to-day, in common with the other judges, wrote in letters which have remained famous, that for ten years past the existing system had been complained of, and he proposed another system, he proposed a reform in the judicial administration of the country. Then in 1880, the evil had already existed for ten years and he demanded a remedy. In 1880 the Bar of Montreal itself passed a resolution asking the two Governments, those of Ottawa and Quebec, to modify the present system, because it did not give satisfaction. A committee was formed to meet the members of the local and Federal Governments, but for some reason or other, the Governments did not agree, and the proposition fell to the ground. In 1882, Mr. Larue, whom we all knew, wrote some letters in the same sense. In 1888 a commission consisting of Mr. Justice Jetté, and Messrs. Lorrain and Weir said what follows in their report to the Prime Minister and the Attorney-General, and I would draw the special attention of the honorable members to this report, which is very well drawn up. It will be seen at the 22nd page of this report that the commissioners insist on judicial reorganization, and I quote it in reply to those who said that no complaints had been made and that no reform had been demanded, and for the benefit of those who say that all was running smoothly and that no one is complaining of the existing system; I quote it in order to

prevent my passing as an innovator who wishes to reform everything for the pleasure of reforming, and in order to prove that I am sustained by authorities, who are authorities both for myself and for the House.

This is what the report of Hon. Mr. Justice Jetté and Messrs. Lorrain and Weir says at page 22 :—

"It will be said, perhaps, that judicial organization has no connection with procedure. The contrary is the case. Even if the procedure were excellent; if the organization which should put it into execution is defective, the evil will still exist, or rather the remedy will be inefficacious.

"'Good administration,' says Mr. Bertrand, councillor in the Court of Appeals, of Paris, 'depends in a great measure upon the organization of judicial bodies.'

"With most nations this organization is different. With all there are complaints of imperfections and abuses. All demand reforms.

"The problem to be solved is to find an organization which while respecting the rules of justice and equity can dispose of the greatest amount of business in the simplest, most expeditious, most efficient and least costly manner for all concerned.

"This reorganization, then, is in the front rank of the reforms to be introduced."

Here, then is a report which emanates neither from the Government nor from myself, but from a body of distinguished men completely independent of the Government, and which says: "This reorganization, then, is in the front rank of the reforms to be introduced." Already the late Mr. Justice T. J. J. Loranger, in the report presented in 1882 by the first commission appointed for the consolidation of the Code of Procedure, insisted upon this capital point. Mr. Pagnuelo, in his excellent work entitled: "Letters on Judicial Reform," published in 1880, had also pointed out this reorganization as necessary. Hon. Mr. Laflamme and Mr. Edmond Larue, in brochures published in 1882, equally mention it as the compeer with reform in the Code of Procedure. There is no doubt that of all the reforms which we may attempt, these, wisely combined, would produce the most considerable results.

I cannot better terminate these remarks than in supporting myself upon the authority of an eminent man who has recently been taken from us. I mean the Hon. Mr. Rodolphe Laflamme, who in 1882 wrote on the question of judicial reform. The opinion of Mr. Laflamme is one that everybody respects. As a lawyer he was at the head of his profession. I had lately charged him to represent in England the interests of the Province of Quebec in a case of the highest importance, which he pleaded with so much ability, so much science, so much zeal, that Sir Horace Davey, one of the most distinguished members of the English Bar, paid me the compliment of thanking me for having sent Hon. Mr. Laflamme to give him the assistance of his legal talents. To-day, the eminent lawyer, the frank friend, so loyal and large-hearted, the former Minister of Justice and Attorney-General of the Dominion, has disappeared, and I profit by the occasion of so important a question as that which I am now discussing, and which he had so well studied, to render to his talents, to his merits, and, above all, to the act of courage and of faith which illuminated his death, a public and solemn testimony.

GENERAL NOTES.

LORD BACON ON REPORTING.—The following occurs in Lord Bacon's "Advancement of Learning" (Book VIII., ch. 3, ss. 73–75) :—"Above all, let the judgments of the supreme and principal courts be diligently and faithfully recorded, especially in weighty causes, and particularly such as are doubtful, or attended with difficulty or novelty. For judgments are the anchors of the laws, as laws are the anchors of the state. And let this be the method of taking them down :—1. Write the case precisely, and the judgments exactly, at length. 2. Add the reasons alleged by the judges for their judgment. 3. Mix not the authority of cases, brought by way of example, with the principal case. 4. And for the pleadings, unless they contain anything very extraordinary, omit them. Let those who take down these judgments be of the most learned counsel in the law, and have a liberal stipend allowed them by the public. But let not the judges meddle in these reports, lest favouring their own opinions too much, or relying upon their own authority, they exceed the bounds of a recorder."—*Irish Law Times.*

BANK OF ENGLAND NOTES.—With the Bank of England, the destruction of its notes takes place about once a week, and at seven p m. It used to be done in the daytime, but made such a smell that the neighboring stockbrokers petitioned the governors to do it in the evening. The notes are previously cancelled by punching a hole through the amount (in figures) and tearing off the signature of the chief cashier. The notes are burned in a closed furnace, and the only agency employed is shavings and bundles of wood. They used to be burned in a cage, the result of which was that once a week the city was darkened with burned fragments of notes. For future purposes of reference, the notes are left for five years before being burned. The number of notes coming into the Bank of England every day is about 50,000, and 350,000 are destroyed every week, or something like 18,000,000 every year. The stock of paid notes for five years is about 77,745,000 in number, and they fill 13,400 boxes, which, if placed side by side, would reach two and one-third miles. If the notes were placed in a pile, they would reach to a height of five and two-thirds miles; or, if joined end to end, would form a ribbon 12,455 miles long.—*Chambers' Journal.*