

Is not that absurd? The Judge has to furnish a certified copy of all the rules, motions or orders, whether they relate in the slightest degree to the case or not.

Instead of adopting this Bill I would suggest these alterations in the Court of Common Pleas; that the summary practice be increased to fifty pounds, that an execution be levied upon lands, that they have power to sell property, both real and personal, and have power to grant a new trial.

I would ask the Attorney General whether the appeal from our Supreme Court is to a Court of Appeal in the New Dominion. We find a section of the Imperial Act says:

"The Parliament of Canada may, notwithstanding anything in this Act, from time to time provide for the Constitution, Maintenance and Organization of a General Court of Appeal for Canada, and for the establishment of any additional Courts for the better administration of the Laws of Canada."

We have understood that the Court of Appeal was to be a Court of Appeal for the various members of that confederation; but according to the language of this law, it is not a Court of Appeal for our Courts, but only for Canada. We are to be a portion of the Dominion of Canada, but we are separate and distinct from them in regard to regulating the Civil practice in our Civil Courts. But in regard to the Criminal Law, I think when a man is convicted for crime it is incident to our position that he should appeal to the Court of the New Dominion. I have failed to elicit anything from the Attorney General in regard to the intention of the framers of the law as to the construction and interpretation of it. I will now appeal to the hon. member for Northumberland (Mr. Johnson) as he was one of the Delegates sent to England to frame that law, and he must surely know whether the Criminal Law is incident to the General Parliament or to our Local Legislature. In my judgment the Criminal Law is under the control of the General Government, even down to the smallest crime, for why should they take the control of the Penitentiaries unless they undertook the control of the Criminal Law. The object of this Bill is to create offices, but I believe we have no power under the Imperial Act to fix the salaries of those officers. You are creating a new Court, and you limit the maximum power of the Court to actions not exceeding \$200, but you ought to restrict it to a minimum. I understood the Attorney General to say that he intended to introduce another Bill which would provide "substitute for the jurisdiction of

Magistrates; and I asked him about it, but he continues silent. If he intends to bring it we should have it before the House now, as it is connected with the administration of justice. I have always in this House advocated the propriety of increasing the jurisdiction of Magistrates to ten pounds. There may be one or two Magistrates in each County who are trading men, but then you can have a Jury, and unless they are packed you are very apt to get justice done. If you can get rid of these trading Magistrates I doubt whether you could improve the method of collecting these small debts. These Magistrates are all over the country, and a man does not have to travel very far to find one to issue a summons for him.

We had better keep the jurisdiction of our Courts as it is, for the lawyers are now accustomed to it, and appoint a lawyer as Judge of the Court of Common Pleas, and then we will not be violating the Imperial Act. I do not think it was the intention of the parties who framed that law that we should have the power, at this session, before the Proclamation of Union takes effect, to create new Courts and re-cast the whole Judicial jurisdiction, and create new Judges with salaries of £650 a year. I do not think we are justified in doing it, and I do not think the interests of the people of this Country will be improved by it in the slightest degree.

Mr. WELMORE.—My hon. friend referred to a section of the Act of Union, which provides that "the Parliament of Canada may, notwithstanding anything in this Act, from time to time provide for the constitution, maintenance, and organization of a General Court of Appeal for Canada, and for the establishment of any additional Courts for the better administration of the Laws of Canada." I understand him to say he had very serious doubts whether or not the Court of Appeal in Canada would be the Court of Appeal for our Province. I will direct his attention to the third paragraph in the Act of Union, which says:

It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honorable Privy Council, to declare by Proclamation that, on and after a Day therein appointed, not being more than Six months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be One Dominion under the name of Canada; and on and after that Day those three Provinces shall form and be One Dominion under that name accordingly.

I will also direct his attention to the latter part of the fourth Section and the fifth:

Unless it is otherwise expressed or implied, the name Canada shall be taken to

mean Canada as constituted under this Act.

Canada shall be divided into four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

Mr. SMITH.—I am aware that these four Provinces are to constitute what is called Canada, but we have a distinct and separate jurisdiction from Canada. This Court of Appeal, as it must be interpreted, means, a Court of Appeal in those matters which the whole of Canada has the power to legislate upon. Certain powers are taken from us and transferred to the General Government, and certain powers are left us. The Court belongs to us, and we have power to change its constitution, so far as its civil powers are concerned, and no one has a right to object to it, therefore that paragraph applies to the Courts of Canada, and does not apply to the Courts of New Brunswick.

Hon. Mr. FISHER.—I refused to answer my hon. friend's questions, because it is unparliamentary to interrupt a gentleman when speaking. It is unparliamentary to put questions at that time; the proper course was for him to finish his speech, and then for me to answer him. When I opened the debate I made very few observations, but I thought I made myself intelligible. My intention was, to bring the Bill before the House, and not to make a speech upon it. I think my hon. friend must certainly have Confederation on the brain. He complains that I did not answer his questions yesterday, but had promised to do so to-day, and had not done it. I did not promise to answer all his questions to-day. I said I believed we had the power to establish three Courts, and I went on to show there was no impropriety in doing it. In regard to the Criminal Law, my opinion is that the administration of the Criminal Law devolves upon us, but the General Government have power to regulate criminal procedure and criminal law, so that a man may not be punished one way in Nova Scotia and another way in New Brunswick. The Criminal Law will be uniform in the whole Union, but the administration of it belongs to us. Unless the question affects something before the House, it is unwise to answer all sorts of questions arising out of this Union Act. I have told him what my view of the law is. One thing I did omit in regard to this Bill. I stated the other day that we intended to bring in a Bill to provide for divisional Courts, and we did intend to do so, but we afterwards concluded not to prepare it. This Bill was prepared before we came to that determination. We intend to ask the House to pass this Bill, and we must make the appointments subject to the action of the General Government.