

is nothing can justify on our part a departure in the least degree from a contract made there. If I entertained the opinion for one moment that the Bill now under the consideration of the Committee was intrenching upon any portion of that contract, I would give it, as one of the Delegates, my most determined opposition. I hold that under the provisions of this Bill we are acting in honesty to our co-delegates. My hon. friend from Northumberland says that at Quebec he took the ground that the salaries must come from the same Government in which the patronage lay. It was agreed, no doubt, that the Judiciary should be paid by the General Government, and if paid by them they should make the appointments—a discussion took place, and a speech was made by a member of another branch of the Legislature, and there was scarcely any difference of opinion upon the subject. That provision has not been departed from even in the London Conference or in this Act. Then in regard to fixing the salaries, it is only after the Union takes place that no salary can be fixed without the assent of the General Parliament. All salaries may be fixed now, and appointments made to the Bench, but they are all subject to modification and change by the General Government. If my hon. friend was right in saying we should not make these appointments, he might, with equal justice, say, if a vacancy occurred on the Bench of the Supreme Court, that it was under the control of the General Government alone, and we should not appoint a Judge for that Court. He takes two positions, first, that it is a violation, to a certain extent, of good faith with our co-delegates, and next, that we have not the power.

Mr. JOHNSON.—I said we had the power, but the propriety of exercising it was a different thing.

Hon. Mr. TILLEY.—I understood him to say we had a right to pass the Act, but had not the power to appoint a Judge.

Mr. JOHNSON.—No, no. I said most distinctly that we had the right to pass the Act until the time the Proclamation brought the Act of Union into operation; that our power was not limited until that Act was in force.

Hon. Mr. TILLEY.—Then my hon. friend takes away one of the objections. I thought he admitted that we had the power to pass the Act, but did not think we had the power to appoint the Judges or fix the salaries. The right, so far as the salaries are concerned, is a matter to be dealt with after Union takes place. We may think the country requires four or five more Judges,

but they may say two Judges are sufficient, and they can deal with the number of Judges and the amount of salaries as they see fit. The salaries of our Judges are to be the same as the salaries of the Judges of Upper Canada, that was arranged at Quebec. It was brought up and discussed fairly there, and the whole subject was entered into in reference to the propriety of extending to the different Provinces the same privileges given to Upper Canada. The resolution passed at the London Conference shows clearly the nature of the agreement entered into;

“The General Government shall appoint and pay the salaries of the Judges of the Superior and District and County Courts in each Province, and Parliament shall fix their salaries.”

This section was not put in by chance, but the question was well argued, otherwise it would not have been put in. We discussed the whole Quebec Scheme, and the question was argued in reference to paying the Judges of the County Courts in Canada, and we secured for New Brunswick the same privilege.

Mr. SMITH.—There is a distinction between the resolution passed in Conference and the law.

Hon. Mr. TILLEY.—I will read them together. I will first read the resolution passed at the Conference, and I will then read the law framed by the Attorney Generals of the different Provinces, assisted by a legal gentleman who drafts the Imperial Acts for the Imperial Government. First,

“The General Government shall appoint and pay the salaries of the Judges of the Superior and District and County Courts in each Province, and Parliament shall fix their salaries.”

The Law framed from that says:

The Salaries, Allowances, and Pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick), and of the Admiralty Courts in cases where the Judges thereof are for the time being paid by salary, shall be fixed and provided by the Parliament of Canada.

This says except the Courts of Probate, which we told them were paid by fees. Why was it necessary to make a provision to pay the Judges of County Courts unless we contemplated establishing them? I think every hon. member in the House will see that it is the spirit of the agreement that these Courts should be established. If we did not contemplate doing this, why did we ask for this change in the Quebec Scheme? My hon. friend says this patronage should not be exercised by the

Local Government, but by the General Government. Suppose these Judges are appointed in the meantime, they are appointed by the advice of the Local Government; and if they were appointed by the Central Government, would it not be after advice had been given by the Local Government? We have the power to establish these Courts, and I believe it is perfectly in accordance with the contract entered into with our co-delegates, and not a violation of it. If it was, I would not stand here and support this Bill. I am not supporting it for motives of personal interest, for I cannot be a Judge.

Mr. SMITH.—You can appoint your friends.

Hon. Mr. TILLEY.—I should like to know from my hon. friend, with his experience in this respect, what he thinks of the patronage. I do not think he would desire a very large amount of patronage, especially in the appointment of Judges.

Mr. SMITH.—It will help you to go to Ottawa.

Hon. Mr. TILLEY.—In making these appointments, there will be five enemies made to one friend. I have no doubt if there are four Judges to be appointed, there will be found twenty willing to take the office for the members of the profession are very patriotic, and they would make a great sacrifice to prevent a situation of this kind from going a begging. I am not a lawyer myself, and therefore cannot expect to be a Judge, so I cannot be charged with supporting the measure for that purpose. If I was looking forward to Ottawa, I think it would be weakening my position rather than strengthening it for me to stand here in my place and advocate the passage of a Bill at variance with the wishes of the gentlemen in Canada with whom I would be associated. When I was lately advocating the introduction of a section into a Bill to authorize the Government of Canada to take possession of the Bay Verte Canal, I was told I was advocating the cause of Canada, but now the tables are turned, and I am accused of dishonestly wanting to get into the public chest of Canada. It is not very consistent to say first that I am working for Canada, and the next day say I am working against Canada. We are perfectly justified in doing what we are, and the only question to be considered is, how many Judges are you justified in appointing or employing for these duties? If you appoint more than are necessary, you are not justified, therefore you should appoint just as many as are necessary and no more.

Mr. SUTTON.—I think this Bill will take from us certain rights and powers,