

in regard to this Court of Appeal, if it is ever established, it will be a subject of questions for adjudication, and will obviate the necessity of going to the Appeal Court in England.

If the House is in favor of the principle of the Bill, that we should establish these County Courts, the appointment of Judges and the other machinery are mere matters of detail, and all I desire is that they shall be definitized as nearly as possible to the practice of the Supreme Court.

Some hon. members have doubted whether we have the right to fix the salaries of the Judges. I think we have the right, and I propose to fill the blanks with just such sums as are in the Canadian Act. After the Union takes effect, as soon as the Parliament meets they will be revised, therefore there cannot be much harm done in regard to salaries, for before nine months the Parliament of Canada will legislate upon the subject. I do not wish to shrink from answering any question that necessarily arises from this Bill being before the House, and if we carry the principle of the Bill I hope all the hon. members will unite with us in making its practice as simple as possible.

MR. JOHNSON.—I cannot agree with my hon. friend from Westmorland (Mr. Smith) in some of his arguments, but I do not wish to go into details, because I have one objection to passing this Bill, which to my mind is almost insuperable. I feel as one of the Delegates that agreed to the Act of Union, that we have entered into a contract, and we cannot establish these Courts without violating the spirit of that contract. While I think the Judiciary of the country can be improved, I do not agree with my hon. friend when he says he would appoint a Lawyer of the County as a Judge, in the Court of Common Pleas. The difficulty is this: a man who lives in the community and transacts business for persons in the Supreme Court, cannot try a case where the same parties are concerned without being suspected of aiding those who were his clients in the Supreme Court. I go to the Supreme Court one day as counsel for my clients, and the next day I sit as a Judge of the Court of Common Pleas where the same parties are concerned. There is a weakness about this that I cannot get over. I shall not go into the details of the Bill, but I must express this opinion upon our right to pass the Bill. I conceive we entered into a contract with the people of Canada and Nova Scotia to carry out the law that was then passed, and that law was passed under certain conditions and circumstances, and to seek now, when the law is going into operation, to vary those conditions, is a position we ought not to as-

sume. When it was proposed in Quebec that the salaries of the Judges should be paid by the Local Governments, while the General Government should make the appointments, I took the ground that the salaries must come from the same Government in which the patronage lay, and I take the same ground now. If I had not been on the delegation I might have felt differently, but I now feel that all those for whom we acted are bound by the conditions of the bargain we made.

When we entered into that contract we had certain Judgeships with certain salaries, and it is only the General Government which should establish additional Courts, and they will do it if necessary. I would go for passing a law of this kind if I was satisfied we were doing right in contemplating making these appointments now. Is it fair to give the patronage to the Local Government and let the General Government pay the salaries? I have thought over this matter, and tried in my own mind to get rid of the difficulty. I desired and do desire that improvements may be made in the Judiciary of the country, but I feel I would not be acting fairly if I supported this Bill. I mention this that hon. members who were on the delegation with me may have the opportunity of convincing me. If I am only convinced that it would be right, I would go for the Bill to the best of my ability. We made that contract of Union when the country was in a certain condition, and if we seek to increase the number of Judges we put an additional expense upon the General Government outside of that condition. It was universally expressed, as well in Canada as at the Conference in London, that the Judges ought to be appointed by the General Government. The reason for this was, that the General Government would be less influenced by local prejudice, and therefore a better class of men would be appointed to the Bench. It was agreed that until the laws should become assimilated the local Judges should be selected from the local Bar, except for Quebec, where they must continue to be local, because they are governed by a peculiar mode of procedure, but the common law should be the same over the whole Dominion, and the same offence should amount to the same crime, and meet with the same punishment in the various parts of the Dominion. The mode of procedure must be different in Quebec, and that was one reason we could not advocate a Legislative Union. By the Treaty made at Paris the Lower Canadians have certain rights reserved for them, that is in regard to their language, law proceedings and institutions of the country, and these rights they themselves cannot give up, and while twenty men in Lower Canada demands

these rights it becomes a question not between the Provinces, but a question between France and England. They cling to their mode of procedure, but are willing to submit to have the General Legislature make the law in regard to crime the same over the whole of the Dominion.

In regard to our power to legislate upon this question, it cannot be doubted that we have the power until this Proclamation declares the Act to be in force. We have the same power to legislate now as we had before we agreed to this Act of Union. The point is not whether we have the power, but are we in a position properly to exercise that power? Having agreed that those Judges should be paid by the General Government, are we doing what is fair between man and man in taking the patronage of those appointments to ourselves when they have to pay the salaries? If any of the hon. members can convince me by any arguments they can conduce that we are justified in taking this patronage out of the hands of the General Government, I shall be very happy to see if I cannot improve the Bill and assist them in any way, but until I am convinced of that, I am not in a position to consider the matter at all.

HON. MR. WILMOT.—In the old Quebec Scheme the Judges of the County Courts for Western Canada alone were to be a charge upon the general revenue. When the question came up for discussion before the Delegates I made a proposition that as County Courts having worked well in Western Canada, and being a cheap and expeditious mode of getting small debts collected, they should be extended to other parts of the Dominion, and it was agreed by the Delegates that they should be so extended.

MR. JOHNSTON.—I am not aware of any agreement; there was a suggestion made that these Courts should be extended, provided the General Government approved of it.

HON. MR. WILMOT.—The salaries of the Judges of the County Courts of Western Canada are paid out of the general revenue, but the Act brought in was to establish County Courts through the other Provinces, and the General Government were to pay the salaries of the County Court Judges.

HON. MR. TILLEY.—My hon. and learned friend from Northumberland (Mr. Johnson) says if we can convince him satisfactorily that his co-delegates have any justification in departing from a contract entered into with our colleagues representing Canada and Nova Scotia, then he is prepared to support the Bill. I assert here boldly that there