

to legislate upon the subject I should not have brought forward this Bill. The Delegates, when they discussed the Union Act, came to the conclusion that we should have the privilege of establishing these Courts, which they had in full operation in Upper Canada, and the salaries of the Judges, as well as the Judges of the Supreme Court, should be paid by the General Government. I think it was understood, though not stated in so many words, that the establishing of these Courts would form part of our arrangements necessary to be made before we went into Union. I could talk a long time upon a law Bill, but I shall not take up the time at present, for the great point is to settle the principle of the Bill. If we agree that it would be an advantage to establish these County Courts, the other matters will be mere matters of detail, and the House can appoint three, four, five or six Judges, as they think proper. I think we will all agree that it is desirable to make the practice in the Courts as simple as we can. We have tried to incorporate all the provisions in this Bill that are applicable to the Supreme Court, either found on our Statute Book or rules and practice of that Court, and then Barristers will know what law they are administering. There is a provision in this Bill that the proceedings and evidence in this Court can be sent to the Supreme Court, and they will pass judgment upon the matter. Should the principle of the Bill pass, I shall have a number of amendments to propose. I have now briefly pointed out the main objects of the Bill. It has been long required in this country, for the present state of things must be to some Counties where Judges go but once a year a denial of justice; but under this Act we send these Justices to the different Counties as often as it is necessary for them to go.

Mr. SMITH.—I was somewhat disappointed in the speech of the Attorney General, and I think almost all the hon. members on both sides of the House will agree that he has not put forward that statement which we believed he would do, for according to what he says our rights are depending upon some vague understanding. He tells us he thinks there was some kind of understanding.

Hon. Mr. FISHER.—I mentioned it in regard to our moral right to legislate upon this subject.

Mr. SMITH.—It is not a question of moral right. It is a question of constitutional right, and not dependent upon what was said or agreed upon in this conference. Our constitution does not rest upon a foundation so uncertain. He says he talked about it outside the conference, and he asks us now to pass this Bill, because these Courts were

talked of outside the conference. We have to see what is in that Act of Union and what our constitutional rights are under that Act. I appealed to the Attorney General yesterday, and I appeal to him to-day, to know what our rights are.

Hon. Mr. FISHER.—I stated that at the outset.

Mr. SMITH.—What does he mean, then, by moral right—a moral right to pass a law? I trust our liberties do not depend upon anything so uncertain as that. I waited with anxiety to hear him say whether our criminal administration would be under the New Dominion or under the Local Legislature, but he has shirked the question and will not give us this information. Have we not a right to call upon him for an answer, as he was one of the authors of the Confederation Bill and spent months in its preparation? He is keeping us in the dark as to whether the criminal jurisprudence of the country belongs to us or to the Federal Parliament. I claim from him an answer. This House has a right to know his opinion upon this point. I think that before proceeding with this Bill we ought to be enlightened upon this point. Is it his business to prosecute criminals after the first of July, or is it the business of the Attorney General of the Federal Parliament. I appeal to the country if that is not the information we ought to have. The Attorney General declines to give us this information, therefore we will have to argue the question unaided by him. Yesterday he promised to answer the question to-day—

Hon. Mr. FISHER.—I did not promise it.

Mr. SMITH.—I think in answer to my question he said he would consider the matter, and give his opinion to-day. Have we a right to legislate, or are we to be kept in the dark? He cannot conceal this information any longer from the House. If he will not give it to us I will present my views to the House in reference to this point. He has an advantage which I have not enjoyed, for he has been one of the framers of the law, and should know what the law should mean. We have to look at the Act as it is and see what it says. In my opinion the criminal business of the country is given to the General Government. I will call the attention of the House to a paragraph in this Act; when he proposes to put some of the jurisdiction of the criminal law in this County Court he is violating the principle he has acceded to. We find in the classification of the powers assigned to the different Parliaments that—

It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to

make Laws for the Peace, Order and Good Government of Canada, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all matters coming within the Classes of Subjects next hereinafter enumerated, that is to say—

1. The Public Debt and Property.
2. The Regulations of Trade and Commerce.
3. The Raising of Money by any Mode or System of Taxation.

And goes on enumerating a variety of subjects, which shall exclusively belong to the Parliament of Canada, and among them we find—

“The Criminal Law, except the constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal matters.”

I ask what that means? Does it mean the administration of the Criminal Law of the country? I think it covers the whole. I find also that they have the establishment, maintenance and management of Penitentiaries. If they had not the administration of the Criminal Law, why take charge of the Penitentiaries? Therefore I think the Federal Parliament take charge of, and settle the Criminal Jurisdiction of the country. We find among the subjects given exclusively to the Provincial Legislatures:—

“The administration of justice in the Province, including the constitution, maintenance and organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil matters in those Courts.”

The Local Legislature seems to have the power to constitute the Courts of Criminal Jurisdiction, but the prosecution of criminals in that Court seems to be in the General Parliament. I would like to have the opinion of the Attorney General on that point, but I suppose he will answer that question as he did the other, by remaining silent. Not having information from him we are to a certain extent groping in the dark. We must act upon our own convictions in the matter. The Attorney General told us in introducing this Bill that he intended to supplement it with another Bill called the Divisional Court Bill. Both these Bills should be before the House before we pass this one. I ask the Attorney General now to bring forward that Bill, for this is only half a measure, as these Bills were to run together concurrently. I do not see that this Bill before the House will be calculated to be productive of much advantage to the country. There will be five more Judges' salaries to pay, at from \$1000 to \$2,000 per annum. The question seems to me to be not whether we have the power to fix the salaries of