

Mr. Wetmore,
Dr. Dow,
Mr. Ryan,
Mr. Bookwith,
Mr. Ferris,
Mr. Babbitt,
Mr. J. Flewelling,
Mr. W. P. Flewelling,
Mr. Parley,
Mr. Lindsay—28.

NAYS:

Mr. Smith,
Mr. Johnson,
Mr. Young,
Mr. Cate,
Mr. Meehan,
Mr. McInerney,
Mr. McQueen—8.

The question being carried in the affirmative, the Chairman proceeded to read the Bill section by section.

1. There shall be established in each of the Counties in this Province a Court of Law and of Record, to be styled the County Court of [name of the County] and the Sittings of the said Court shall be held at the County Court House.

Passed.

2. The Governor in Council shall appoint one Judge for the Counties of Charlotte, Carleton and Victoria; one Judge for the Counties of York, Sanbury and Queen's; one Judge for the Counties of Albert, Westmorland and Kent, one Judge for the Counties of Northumberland, Gloucester and Restigouche, and one Judge for the Counties of King's and Saint John; provided, that the said Court for the County of Saint John shall not have or exercise any jurisdiction in any Cause in which the City Court in and for the City of Saint John, or the Police Court in the Parish of Portland, in the County of Saint John, have jurisdiction. The said Judges shall be Barristers of not less than seven years standing, and shall hold office during good behaviour; and a Clerk for each Court shall be appointed, who shall be an Attorney, and shall hold his office during pleasure.

Mr. JOHNSON.—We are now going to establish County Courts, the principle of the Bill is established, the main question is settled, and now having cast my vote unavailingly against it, I am prepared to do what I can to make its provisions as effective and satisfactory to the people as possible. We are, it seems, going to appoint five Judges, each Judge to hold a Court, having jurisdiction over three Counties, and then to appoint a separate Clerk for each Court; is that the intention? and that man an Attorney, a practising Attorney, who is able to go into the Court, and conduct cases whilst still holding his position? Well, I know that lawyers are generally pretty good men, but I think this House should not hold out inducements such as this. I really cannot think this is intended.

Hon. Mr. FISHER.—I sincerely hope the same spirit which has been expressed by the hon. member for Northumberland

will influence all the hon. members present, and I thank him for the remarks he has made. Two propositions are laid down with regard to the Clerk. First, it is intended to appoint one for each Court, for it is believed that he will be needed. All the business could not be attended to by one Clerk for all the Courts, and from the fact that three Courts will be held by each Judge in the year, it will be seen that a distinct Clerk of the Court will be required, and prove advantageous. Second, it is intended that he shall practise; if the House think that he should not, we can put that in, but it was thought that there would not be sufficient business of the Court to enable him to get along if he was excluded from practising. If it is thought desirable to make a change let a clause be inserted that he shall not practise in the County of which he is Clerk; this will cover the ground. The Clerk of the Court of Common Pleas is now allowed to practise in the same Court, and I see no very great evil that would arise from it in this case. However, wherein the Bill is defective we shall be thankful to hear suggestions of improvement, so that it may be remedied.

Mr. JOHNSON.—I would ask why the Clerks of the Peace now appointed cannot be appointed to be Clerks of the County Courts; thus saving the expense and not leaving the appointments in the hands of the Government?

Mr. SMITH.—It is evident there is an overwhelming majority for this Bill, but there are certain portions of it which are most objectionable, and upon which I may say a few words. In Canada they have these County Courts, and they are said to have worked well; but it is very different there to the system about to be established here. There they have a Judge for every County, and in some Counties they have two. The Judge resides in the Shire town, he is always there to do his business; but how will it be here? By this section we are to have an ambulatory Judge, going about over three Counties, holding his Courts here and there, and I should like to ask how are we to get at him if he is wanted? How can we get access to him? How can we move for a new trial if he is moving about in this way, here to-day and gone to-morrow? I just point out this inconvenience, and ask the Attorney General how we can get out a summons, make an application for a new trial, or do any other business that may be required when the Judge is constantly moving about? How can we set aside a judgment by default? Here is a case in which we must be prompt, there is only a certain time to act, and how or where shall we find the Judge? If we had one for each County, as they have in Canada, he would be accessible by the people at all

times, and the same thing might be done here. Make the salaries less and appoint more Judges; divide the salary now proposed to be given into three parts and give us more Judges, and it will prove more advantageous. I suppose the Government won't receive my suggestion, but I am sure it can't work with only one Judge for three Counties. This is, I think, a matter worthy of consideration, and must commend itself to the minds of hon. members who are engaged in the law.

Hon. Mr. FISHER.—This very question has just been decided by a great vote, it involves the principle of the Bill, and that has been established. How is it now in the Supreme Court? The Judges are scattered round over the circuits, and the same objection would apply equally in their case. Then if the salaries were reduced so as to permit of the appointment of three times the number of Judges they would have to carry on their practice as Barristers. But I do not believe a Judge should be a practising lawyer; he should be removed from every influence which may hinder him from forming a fair and impartial opinion. My hon. friend says that in Canada the Judges are always to be found at one place; but it is not so, they are always moving about, although of course where they have one Judge to every County they have not so large a circuit to travel over. We cannot appoint more, for our means will not admit, unless we allow the Judges to practise, which I consider very undesirable they should do. The Judges who are appointed will be required to reside in the District over which they preside, and this is all that is required.

Mr. STEVENS.—I think the idea of the hon. member for Westmorland a very good one if it could be carried out, but in that case it would be impossible to obtain the consent of any Barrister of good standing to accept the office of Judge, as the salary would not be sufficient to support him in his position, unless he were allowed to practise in the Supreme Court, and if he were allowed to do that, I conceive it would be striking at the very fountain of justice, and mix up with the toils, anxieties and prejudices of private business, that calmness of mind and impartial administration of affairs which should characterize the Judge. For this reason I am entirely opposed to the reduction of the salaries in the manner suggested.

Mr. CHANDLER.—The idea proposed by the hon. member for Westmorland can, I think, be easily overturned. He complains that the Judges will be moving about, and thinks that a difficulty will be experienced in certain cases from this fact. But the Judges of the Supreme Court are always doing the same