

think any such difference exists. I do not understand either, that there was any intention to force the perhaps hasty view expressed by Sir John Macdonald in 1880 beyond the particular case he had before him, or to lift his language into that of the enunciation of a general principle. I think he was merely applying his remarks to the particular case he had before him, and I am glad to know that on both sides of the House there is an almost unanimous feeling that our duties are not perfunctory or automatic, that we have the responsibility of examining into each case when the legislatures of the provinces act, and that if after examination we find that the exercise of their power has been improvident we will not vote the money. I challenge the correctness of one remark made by the hon. gentleman (Sir Charles Hibbert Tupper). He said that so imbued was this Government with the novel idea which they had introduced in 1896, that they proposed to provide for the salary of Judge Prendergast before a judicial district was created for him. The hon. gentleman (Sir Charles Hibbert Tupper) is wrong in that. Under the law of the province of Manitoba power was vested in the Lieutenant-Governor in Council to create a judicial district.

SIR CHARLES HIBBERT TUPPER. That is what I said.

THE MINISTER OF MARINE AND FISHERIES. The Lieutenant-Governor in Council did exercise that power.

SIR CHARLES HIBBERT TUPPER. No.

THE MINISTER OF MARINE AND FISHERIES. I speak on the authority of my right hon. friend (Mr. Fitzpatrick), and it bears out my recollection of the facts, and in addition to that the Attorney General of Manitoba made a full report advising this Government of the necessity of the appointment. We had every antecedent condition fulfilled. The legislature gave the power to the Executive Council to create judicial districts, the Executive Council exercised their power; the Attorney General of the province in an elaborate report explained satisfactorily to the central Government the necessity of the appointment of a judge, and then, and not till then, this Parliament was asked to vote money for the payment of the salary. I am glad to know that after all our discussion is largely academic. I am glad to know that no argument has been advanced that we should not vote the salary for an additional judge in the Court of Appeal in Ontario. It is acknowledged, I believe, that this is a court of very high standing, and that the legislature thought the number of judges of that court being four, that it was inconvenient.

SIR CHARLES HIBBERT TUPPER. Would the hon. gentleman allow me to refer to this question of fact, and perhaps it will refresh the mind of the Solicitor Gen-

eral. In 1896 the hon. member for Halifax (Mr. Russell) argued on the assumption that the Manitoba executive had acted, and I said :

But after the subject had been more fully considered, and the Solicitor General had made his last statement, it appears that this proposition has not even been considered by the executive of the government of the province of Manitoba, but that there happens to be a general Act in that province whereby the Governor in Council may carve out and add to the judicial districts for county court purposes. Apparently, from the Attorney General's telegram and the papers laid before the committee last night, the Executive Council may, in the future, so decide.

I go on to show that according to these papers the executive action had not been taken, and that there was merely a request from the Attorney General.

THE MINISTER OF MARINE AND FISHERIES. My recollection is that the Order in Council had passed, and I am strengthened in that belief by the Solicitor General, who knows the facts. I was proceeding to call the attention of the House to the fact that our discussion on both sides has been largely academic. Practically no opposition is offered to the provision for the payment of a new judge for the Court of Appeal of Ontario. Nobody challenges the action of the Ontario Government in creating that additional judge, and nobody challenges the duty which lies on us, under the circumstances, of providing for his salary. So far as that is concerned, the House is at one. Then, we have the judge for the Yukon district, the necessity for whom, and for making provision for the salary of whom, is not challenged. And so with the judges in the province of Quebec; I will leave that matter to my hon. friend to discuss. Now, I am coming for one moment to a matter which is not in the Bill, and which I regret is not in the Bill; that is, that it does not make provision for an increase in the salaries of any of the Superior Court judges throughout the Dominion of Canada except, I believe, in a very special case in the province of Quebec, where an anomaly existed. There has been a very serious anomaly existing as between the salaries of the Superior Court judges of the province of Prince Edward Island, and the salaries of the judges in the adjoining provinces. The matter arose in this way. When the province came into confederation, the judges had been accustomed for years to collect fees for chamber work done by them, and in a very improper way, in my opinion, and I think that opinion will be concurred in by all lawyers. They eked out the salaries which were paid to them by the Dominion Government, by the collection of fees; and when that fact was brought to the attention of a former Minister of Justice he wrote a letter to the judges of Prince Edward Island, express-