

the rumors in reference to the manner in which the machinery and other materials were disposed of on this occasion, and prove them to be unfounded. A good deal of feeling existed in New Brunswick in regard to the dismantling of the St. John establishment. It was felt that if the Province of New Brunswick must provide for criminals sentenced to less than two years imprisonment, the Dominion should have handed over that institution to the Provincial Government for the purpose, and also the machinery and other fittings that it was not worth while to remove or sell. As the story goes the whole institution was thoroughly dismantled, and machinery was taken down which, if allowed to stand, would have proved useful to the Provincial Government for many years, and which was only sold for old iron because it was not fit to be taken to the Dorchester Institution. It was to be hoped the return would show those statements had little foundation in fact.

Mr. McDONALD (Pictou) said he had heard for the first time that any dissatisfaction existed in New Brunswick on this subject. He had no information of that character from the officers whose duty it was to superintend the removal of the penitentiary from St. John to Dorchester, nor had he heard of any dissatisfaction in the matter, nor cause for it. They had been prepared to do at St. John as was done at Halifax, to remove whatever materials and fittings were useful from the old institution to the new one. Government would make enquiry as to the facts in this case, with a view to laying them all before the House, with any explanations the officers involved might have to make.

Motion agreed to.

#### ST. JOHN PENITENTIARY.

Mr. WELDON moved for copies of all correspondence between the Government and the Government of the Province of New Brunswick, in respect to the St. John Penitentiary, since the first day of January, A. D., 1879, and also the special case agreed upon between the said Governments in respect of such penitentiary and imprisonment therein. He said in 1879 he had called the attention of the House on a motion he then made for papers connected with the St. John Penitentiary, and he now would briefly recapitulate the facts. The St. John Penitentiary was originally built by the city and county of St. John for a House of Correction, and in 1841, by arrangement the Province took the property as a penitentiary, and it was contended that by the arrangement the city and county of St. John had the right given to them to send their short term prisoner, rogues, vagabonds, etc. This privilege was continued down to the Union of the Provinces, and the prohibition in the Criminal Law of confining prisoners sentenced to less than two years imprisonment was suspended as regards this penitentiary. Now that the penitentiary was removed to Dorchester the question had come up. A special case had been submitted to the Supreme Court between the Dominion and Provincial Governments, upon questions as to the power of the Dominion Government, to legislate on this subject, a question upon which there could be but little doubt. What he contended was, that it was not a legal question but a moral obligation, to carry out the arrangement made in good faith between the city and county of St. John and the Province, and if upon investigation it was ascertained that such an arrangement was entered into, then that the Dominion Government in good faith should carry it out. The city and county of St. John were not allowed to appear by counsel on the argument of the special case. Another more serious question has also arisen upon the argument. The counsel for the Province sought an opinion upon the following question: Upon whom, the Dominion or Provincial Governments, does the responsibility rest to provide for the maintenance of

prisoners sentenced to less than two years imprisonment with hard labor for offences against the law of Canada? This question the Dominion Government objected to being discussed, and the Court gave no opinion on the subject. We hoped the Government would consent to submit this question for the opinion of the Court and have this vexed question settled. By the Acts of Union the criminal law and the establishment and management of penitentiaries were given to this Parliament, while the establishment of public and reformatory prisons were given to the Local Parliaments. As the Province of New Brunswick stood, there was no place in which these prisoners could be confined except the common jails of the counties, and it was doubtful if an offender could be sentenced to hard labor in a common jail. At any rate it was a legal question which he hoped would be finally settled, as well as the other claims of the Province, which they sought not as suppliants but as rights to which they were entitled, and which questions seemed to be kept open for no other purpose than to enable members of the Local Government to take two or three trips a year to Ottawa at the expense of the Province.

Mr. McDONALD (Pictou) said there was no objection whatever to bringing down the papers asked for by the hon. gentleman, and he would be glad of the opportunity of letting Parliament know by the production of those papers the exceptional position in which St. John stood with reference to the penitentiary in that city before and since Confederation, and down to the time of the removal of the institution to Dorchester. He would not now enter fully into the question, but simply say that the St. John Penitentiary was not in reality a penitentiary in any sense of the word. It was but a common gaol in which prisoners of all kinds—vagrants and drunkards as well as those convicted of the higher crimes—were imprisoned. In that respect its position was exceptional, for in the other Provinces, for crimes for which imprisonment under two years was imposed, the Provinces provided the prison accommodation. About the time when the question for removing the prison from St. John to Dorchester was being considered, the relation of the Province of New Brunswick, and the duties of the Dominion towards the Province and the city and county of St. John, came under discussion, and, after a voluminous correspondence, a case had been carefully prepared on the part of the Dominion and Provincial authorities and argued by able counsel in the Supreme Court of Canada. On that case so stated judgment had been given, and the hon. gentleman frankly stated that with the determination of the Court he could find no fault. The learned counsel for New Brunswick—the present Judge King of that Province—had proposed to raise the question stated by the hon. gentleman as to the right of the Dominion Legislature to define the periods of imprisonment for which the penitentiaries and the common goals should be respectively available. In other words, to determine whether in all cases of crime—those for which even the smallest punishment was given under the law—it was compulsory on the part of the Dominion to provide accommodation in the penitentiaries. I declined to submit to the Supreme Court what should be the policy of this Parliament. From Confederation down to the present time, with the exception of New Brunswick itself, I believe the policy of Parliament has been—and I never heard it disputed until then—to define when the respective counties in the Dominion should incur the expense and responsibility of providing for crime committed within their bounds. The decision of Parliament was that the punishment for all offences for which the Court awarded less than two years should be by confinement in the common jails of the country. In Ontario provision is made to relieve the counties by providing for confinement in the Central Prison, but in Nova Scotia and the other Provinces