

The Act was left to its operation, although the Government did not concur in the statements made in the preamble thereof, as to the insufficiency of the Court of Queen's Bench, as now constituted, to perform its functions, and it was expressly stated that such action was not to be taken as an expression of opinion on the part of the Dominion Government that the appointment provided for by an Act should be made. The French Canadian senior member of the Montreal bar presented a petition in that sense, and also asked that the claims of their nationality be considered in any appointments to be made.

There can be no doubt that these quotations from "Hansard" show there had been a meeting of minds as to the independence of this legislature regarding the voting of salaries for judges created by a certain province. We had the admission, that the Government in asking Parliament for supplies of this character were bound to show good cause as in every other case. For a long time there had been a statute providing for the appointment of additional judges in British Columbia, and it was not until 1894 that Sir John Thompson asked this House to vote the salaries. The right hon. gentleman (Sir Wilfrid Laurier) then leading the Opposition asked in the debate simply: "what is the increase," and no demur was made to the principle involved in the following observations of Sir John Thompson:—

Mr. LAURIER. What is the increase?

Sir JOHN THOMPSON. The object of this resolution is to provide for another county judge for British Columbia, in the Kootenay district. That district was created a county court district by the provincial legislature several years ago. It has not been thought necessary to make the appointment, but it is deemed expedient to take the powers now, owing to the increased population of the district, and the population going there is of a class that requires the attendance of a court of justice.

I can abundantly show from the records that that was the position when the present Government took office, when they suddenly and in a most extraordinary case where there had not been action of the executive in Manitoba in order to create a judicial district and which in that province required the passing of an Order in Council only; such was the hurry to appoint Mr. Prendergast a judge that the Government came down pell mell and discovered before the supplies were granted that they had preceded the action of the local authorities, and simply at the request of the Attorney General had asked for money to pay an additional judge. It was after that, there was an additional district carved out under the general Act by the local government of Manitoba. It was then necessary for the right hon. gentleman to shelter himself behind this argument that his party had successfully contended against from 1867 down to that date. The Solicitor General now suggests that in connection with the provisions for an additional judge

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in the province of Quebec, Mr. Dickey, when Minister of Justice, put a resolution on the paper proposing to ask the House to make provision for that judgeship. The answer to that is complete. No action was taken upon it, because Mr. Dickey did not state that that resolution had either the approval of the Government or the assent of the Crown. As is not unusual, a Minister may in advance of the decision of the executive put the necessary notice upon the paper, and it is not until he moves a formal stage in the House that it is required of him to state that the executive has taken steps to obtain the assent of the Crown.

The MINISTER OF MARINE AND FISHERIES (Sir Louis Davies). My hon. friend (Sir Charles Hibbert Tupper) has either imagined or magnified the differences which he supposes to exist between hon. gentlemen on this side of the House and himself as to the construction of the British North America Act. I have never understood from any of my colleagues, either in Opposition or in Government, that they considered the duties of this Parliament in the voting of judges' salaries to be either perfunctory or automatic. I have always understood from my leader and from my colleagues, that they had a clear and definite understanding on the subject, and that, as the Parliament of Canada, we have responsibilities in voting these salaries which we cannot ignore. The principle which we endeavoured to lay down a year or two ago, and which I understand my right hon. friend insists on now, is this: That the duty of the central Government is to take care that there is no improvidence on the part of the provinces in the exercise of their power to create judicial districts.

Sir CHARLES HIBBERT TUPPER. I do not think that is the Prime Minister's position.

The MINISTER OF MARINE AND FISHERIES. I have a very clear recollection of the right hon. gentleman laying down that position, and almost in the words I used. We cannot ignore the fact that the British North America Act has created mutual powers and duties with respect to the administration of justice. The provincial legislatures are charged with the administration of justice in the provinces, including the constitution, maintenance and organization of the provincial courts, both civil and criminal. We are charged with the appointment of the judges and the payment of the judges' salaries, and it goes without saying that if there was an improper or improvident exercise of this power by a provincial legislature, this Parliament would stay its hand and pause before voting the necessary money. It would be a great misfortune if the idea became prevalent that there was any difference between the leaders on either side of the House as to this important matter, and I do not