

prisoner at present at his own expense, though we hope soon it will be at the public expense, but if he is acquitted, the Crown and the prosecutor are precluded by your verdict, and the decision is unchangeable. The whole feeling of the Court, which every one familiar with the proceedings of a Criminal Court, knows is tender and merciful towards the prisoner, would be reversed, and there would be found not only a sentiment, but a rational ground for giving the advantage to the prosecutor against the prisoner."

As to the two last jurisdictions proposed to be established by this Bill, are they not *ultra vires* of the Parliament of Canada, and a direct invasion of rights secured to the individual Provinces by the Union Act?

I scarcely know how to discuss the subject, without apparently committing myself to the expression of opinions that may seem to militate against free judicial action hereafter; because I think I can foresee, if the Bill passes in its present shape, many questions of conflict of jurisdiction as likely to arise, on which the Supreme Court of New Brunswick will have to express opinions and pass judgment.

Alive to the caution a Judge should exercise, in confining any opinion he may publicly express to the legal construction of existing Acts rather than on prospective questions, I feel great delicacy in saying any thing that might be construed into a settled judicial opinion on the construction of this Bill, and therefore what I now say I desire may be considered as merely suggestive, and not as a deliberately formed opinion to be held of judicial weight, should the measure become a law; in which event I shall of course hold myself open to decide as I may consider right on a full judicial hearing and consideration of any matter submitted for adjudication. I assume the Parliament of Canada has no power to confer original jurisdiction other than is provided for in 'The British North America Act, 1867.'

By that Act the power of the Dominion Parliament to establish Courts is, as to appellate jurisdiction, apparently full and complete; as to original jurisdiction, limited and restricted. It is by virtue of the Imperial Statute alone that the Parliament of Canada obtains its legislative powers; and the Dominion Parliament and Local Legislatures are alike bound to confine their legislation within the limits therein prescribed. A grave objection then to this Bill would seem to be, that in many particulars it exceeds those limits.

And even if Parliament had the power, the establishment of the proposed Court of Original Jurisdiction would, I fear, be injurious to the interests of New Brunswick; and I wish to be understood in any remarks I have or shall make, as speaking only from a New Brunswick stand-point, leaving those interested in the subject in the other Provinces to deal with the matter in the way that seems to them best.

The effect of the Bill will be, I fear, to weaken and enfeeble the Supreme Court, by depriving it of many of its present powers, and rendering it substantially an inferior Court of comparatively limited jurisdiction; thereby crippling its usefulness, destroying its prestige, and necessarily lowering it in the estimation of the public; and, I fear, not substituting in its place a Court calculated to meet the necessities of the people, or to give that satisfaction which has hitherto been experienced from our present judicial system—a system which has been in operation since the foundation of the Province; which is a counterpart, as near as may be, of that of the mother country, which is well understood throughout the country; which has worked well, and against which I am not aware that there are any complaints; or if there are, none that the Local Legislature cannot redress. The Courts are accessible at comparatively trifling expense, being held in every County in the Province; and therefore the causes of suitors generally tried in the Counties in which they reside, and the proceedings open to revision before