

Mr. PALMER referred to the understanding upon which the people of New Brunswick entered into Confederation, one of which was the revision of the salaries of the judges. He maintained there should be no discrimination between the judges of the Maritime Provinces and the judges of the other provinces. The rights of property of the people of New Brunswick were just as valuable as those of the people of the other Provinces, and they had an equal right to good judges. He showed that the necessaries of life in the Maritime Provinces were dearer than in other portions of the Dominion.

Hon. Mr. McDONALD (Pictou) thought the subject was one involving very important considerations. He had noticed that in none of the Provinces were the salaries of the judge's equivalent to the services performed. (*Hear, hear.*) Upon these men depended to a great extent the character of our institutions, and he hoped that the salaries of our judges would, all over the Dominion, be fixed at such a figure as would be reasonably sufficient. The hon. gentleman showed that a barrister standing well in his profession, by being placed upon the Bench, would suffer in a pecuniary sense. He trusted that a change would be made in order that the most talented men might occupy judicial positions and receive such remuneration for their services as their character, position, and learning deserved.

Hon. Sir JOHN A. MACDONALD said they had no objection to the motion for the production of the correspondence, and had great pleasure in assenting to the production. The question was one to which the Government had given considerable consideration. It was well known by the hon. gentleman who made that motion and by the gentleman who had succeeded him that when a professional man was elevated to the Bench he accepted the position and had no right to expect to ask for a promotion or increase of salary. It was necessary for the independence of the Bench that the principle should be well understood that a judge had no right to hope for promotion. It was true he might be elected to a higher office, but he had no right to feel offended if any other professional man should be selected over him.

At the time of Confederation, it was decided that the judges in the various Provinces should be paid the salaries they had agreed to; therefore, none of the judges could complain. Still, Parliament in its wisdom chose to increase the salaries of certain judges in the Maritime Provinces and had Confederation not taken place, the judges in these provinces would probably have continued at the low salaries at which they found them on the first of July, 1867.

Now, they found quite a different state of things in British Columbia. There the Chief Justice and senior Puisne Judge having been appointed in England, and their salaries being viewed from an Imperial stand-point had larger salaries than had the last Puisne Judge, Mr. Gray, who had been appointed since. He only received the same salary as the Puisne Judges of the other provinces. The salaries of the British Columbia judges had not been reduced since Confederation. They were secured to them at the time, as were the salaries of the other judges.

The whole question rested, in a public point of view, upon the question. Would a larger salary obtain the best talent? There were considerable difficulties in the way of dealing with the question. If it were decided to make the salaries all over the Dominion equal, it would be necessary to raise the salaries of the judges in the rural Superior Courts. They stood upon perfect equality except as regarded salary.

If they looked to the mother country, to which they generally had reference as to such matters, they found that the judges in England had higher salaries than the judges in Ireland, and that the judges in Ireland had larger salaries than judges in Scotland, yet the question was never raised there as to inequality of salaries. A Puisne judge in England received a larger salary than the Lord President of the Court of Session in Scotland, the head of the judiciary system, and he received a higher salary than the Chief Justice of Ireland. The hon. gentleman would see the question was not without its difficulties. There were no greater differences between the smallest and the largest provinces than there was between England and Ireland or Scotland.

The hon. gentleman next pointed out the difference between equality in salary and equality in position, and showed that judges in England, Scotland and Ireland were upon an equal footing. He would not then enter into greater details on this subject. He admitted that the salaries of judges were not equal to their duties and position, and proceeded to explain the hopelessness of giving salaries to judges which would be equal to their incomes as counsel. He showed that in England the incomes of certain judges, when at the bar, greatly exceeded their salaries as judges.

He pointed out the advantages of a judicial appointment over practice at the bar. A salary, he thought, should be paid to judges that would secure the best legal talent and the most efficient judges, and if an equality in salary could be obtained at the same time, it would, of course, be so much better, because the natural feeling of every person living in the smaller provinces was that their men were just as good as other. (*Hear, hear.*)

Hon. Mr. BLAKE observed that in the readjustment of this question the Government should take the opportunity of putting upon a correct footing the judicial salaries in Ontario, which at present he thought were not on a correct footing, in as much as a portion of these salaries, contrary to the Constitution, was provided for by and out of the local funds, susceptible of withdrawal by the Local Legislature, thus interfering with the provisions of the Constitution which, whether wisely or unwisely, are intended to guard the independence of judges from the Local Legislature, by leaving their salaries to be fixed and provided for by this Parliament. He had always regarded with undisguised regret the provisions by which the emoluments of the judges were paid out of local funds.

He quite agreed with the observation that they could not take the salaries of leading counsel as the measure of judicial salaries,