

might be as just and unimpeachable as heretofore, yet the effect would be the same. The confidence which should be awarded would be shook and a long train of evils would result, which every member who gave his voice for the measure might have to deplore. He therefore moved that the bill be recommitted, for the purpose of expunging that clause.

Hon. Mr Dodd read a written amendment to the same effect as that just verbally moved, instead of which it was substituted.

Mr Howe said that if the motion passed, he would maintain the abolition of the whole inferior courts, Cape Breton not excepted; for he observed that in all the propositions of the learned member for Inverness, to maintain the supreme, at the expense of the inferior court, he had invariably upheld the benefits of the latter tribunal for his own constituents, under the argument that Cape Breton had a superior claim.

Mr Morton stated that so far from the people of the country wishing to make the labor of the judges of the supreme court greater by reducing their number, they wished to reduce it by striking off one sitting of that court, and he was prepared to bring a bill to that effect for the part he represented.

Mr Young did not consider the decision of yesterday by a majority of one for depriving the supreme court bench of a judge, as one which would be steadily supported; nor would he depend on the decision of to-day as conclusive, if it terminated in the same manner;—because it was plain that members did not vote for reducing those judges under the impression that the change was called for, or would be beneficial; but in order to preserve the inferior court. The question, therefore, for reducing the superior judges, was not fairly tried, nor could it be, while it was hampered with another, which bore so directly upon it. He felt the conviction that when once the determination of all cases civil and criminal, however important the considerations or vast the interests involved, rested with the judgement of one mind, disaffection and distrust would inevitably arise, in comparison with which, the saving of a single salary was as a mere drop in the bucket. To hold winter circuits in Cape Breton was out of the question, and suppose sickness was to overtake a judge, from some one of the thousand ills to which he daily hazarded himself in these journeys;—where would a proper substitute be had? You appoint one by commission, said the hon member for the county of Halifax; but you will appoint?—will you take a barrister from the bar and place him transiently on the bench—who cannot be expected to act uninfluenced when he may be partially interested in the very cases which may be brought before? Mr Howe, asked the learned gentleman the following questions—how many months labor three judges would have to perform, in transacting all the business?—and how many times cases of sickness have occurred among the judges during the last half a century?

Mr Young replied that he frankly admitted that three judges could perform the physical labor required, but he deprecated an arrangement which in the event of a casualty would produce such baneful results; and if few cases had occurred, that was no argument; for a Judge might take ill to-morrow. (Mr Howe.—Suppose our speaker would die to-morrow, would we not have to choose another? The hon. speaker hoped they were not going to kill him at all events.) Mr Y. continued—He asked whether such a contingency ought not be provided for, and maintained that it should, to preserve the entire efficiency of the supreme tribunal. The assumption that he was declaiming against the inferior court in Nova Scotia, but maintained that from the sacred

and hallowed soil of Inverness they should not be withdrawn, was contradicted by his previous statement that he and his constituents were willing to dispense with them. He smiled at the argument that sixteen or seventeen hundred pounds would be saved by the provisions of that bill as it now stood; when he knew that £500 was the largest sum that could be saved by it—indeed the hon gentleman for Cornwallis never contemplated a greater reduction of the judiciary expenses by this bill than about £500: and if the amendment now proposed was carried, it would dwindle into nothing. (Mr Howe maintained that £1617 would be saved.) Mr Y. denied it in the most explicit terms—£250 was the utmost amount. With this sum they might support their darling inferior courts, to the destruction of every proper check and of confidence in the superior tribunal; but he waited only for the public opinion to operate. He cared not by whom it is administered, the system of inferior courts was radically bad, and year after year public opinion was growing up stronger and stronger against these courts, and would eventually either wholly abolish or effectually reconstruct them.

Mr Bell would vote for dispensing the judge from the supreme court—he had no objections to let the experiment be tried—under the firm conviction that the people would come in four or five years and demand the office to be restored.

Mr Howe asked the learned gentleman for Inverness, provided the inferior court was abolished, what he intended to substitute for the Sheriff's court in Scotland?

Mr Young explained the jurisdiction of the Sheriff's court, and answered, that Nova Scotia as a colony was not yet extensive enough to require such a system: and he asked would the hon. gentleman say that it was an advantage to maintain the inferior courts, when the supreme could do all the business.

Mr Howe could only say the system that learned gentleman wanted to force upon the province, existed not either in the United Kingdom or the adjoining colonies, and he would like to know the reason for making this province an exception. The learned member had said he had not proposed the abolition of the courts in Cape Breton, because he did not wish to force the measure on his colleagues who were opposed to it, but still he persisted in abolishing them in Nova Scotia proper. Now although he (Mr H.) did not think the country were disposed to part with their inferior courts yet he was willing to try the experiment, provided it was extended over the entire province—not otherwise. With respect to appointing a judge by special commission, which the learned gentleman had argued against, he (Mr H.) could see no difficulty. The muster of the Rolls would make a capital substitute, or one of the crown officers upon an emergency; against either of whom the objections would not bear. In proof that four judges was not always the best number, he mentioned a case where an action had been entered for £100, and the Judges were equally divided thereupon, and the party prosecuted had his money yet in his chest. If the number was not now reduced to three, the salaries of 4 would be permanently fixed on the civil list; and if the inferior courts were abolished to maintain the higher Judges, then would the lawyers again travel through the country as formerly, and the increased litigation and dissatisfaction be reproduced.

Mr Fairbanks spoke with warmth in favour of the inferior courts, and with disapprobation of the course pursued by the learned member for Inverness, in endeavoring to uphold the Supreme court entire, by the abolition of the Inferior Courts, notwithstanding the assurance

of the judges that they had rather, their number should be diminished, then that the court to which they belonged, should by a union with the sessions, be mixed up with the local politics, petty disputes, or religious differences of the country. He (Mr F.) was unwilling to strike a judge from the Supreme Court, nor would he have voted for that course, because he doubted of its prudence, had he not been convinced of the necessity of doing so, in order to prevent the abolition of the Inferior Courts. Yet it was something strange that neither of the judges had offered one sound and sufficient argument against the reduction of their number, nor had the hon. and learned gentleman himself offered any. In fact there were precedents as well as other arguments, to recommend their reduction to three, and indeed that was the original number. Mr F. read from the act providing for the appointment of an additional assistant judge; he then reverted to the operation of the courts in the country with which he said the learned member for Inverness was unacquainted, and consequently (he might without any disrespect say) that that gentleman was unable to decide.

The question on the amendment for recommending the bill to strike out the clause, for dispensing with a judge of the Supreme Court being put, there appeared—

For the amendment, Messrs Uniacke, Young, Goudge, Dodd, A. Archibald, Allison, McLennan, Holland, Holmes, Waterman, J. Sargent, Dickey, Thorne, W. Sargeant—14.

Against the amendment, Messrs Howe, Kavanaugh, Bell, Holdsworth, Smith, Taylor, Forrestall, Clements, Spearwater, Robicheau, McHaffy, Dewell, McDonald, Benjamin, Miller, McKim, Heckman, D'Entremont, Fairbanks, Forrester, Morton, Waterman, Lewis, Dickson, Desbarres, McDougall, Chipman, Huntingdon, and Doyle—29. The Bill passed without further division.

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