

sented themselves in the preparation of such bill, and stated that he had given his best attention to the preparation of a measure of that kind. Had it not been that such an amount of valuable labour had been bestowed upon the preparation of a Supreme Court bill, he would have felt diffident in undertaking the task. Some features of the present Bill bore on their face a relationship to the features of the Bill of the hon. member for Kingston, and it should, therefore, secure his tender mercies. The very first difficulty met with in the preparation of the Bill was in writing the first word of it. It was a Bill creating a Court of appellate jurisdiction. Should that Court have a jurisdiction of appeal arising out of Local laws as well as out of Federal laws? That was one of the important questions which he had been compelled to consider in the preparation of the measure, and he felt bound to say that the opinions of men whom he highly esteemed differed on this point. Article 101 of the British North America Act said, "The Parliament of Canada may, notwithstanding anything in this Act, from time to time, provide for the constitution, maintenance and organization of a General Court of Appeal for Canada, and for the establishment of any additional Courts for the better administration of the laws of Canada." He understood the Federal Parliament was thus given the power to establish a Court of appellate jurisdiction. If these words "notwithstanding" &c., did not apply as an exception to the power given to the Local Government of establishing Courts of Justice, they would then mean nothing. This power was evidently given in view of the existing Provincial tribunals, because there was no other tribunal from whose decision an appeal might be taken. If it were not so, the clause would have been written otherwise. Tribunals of original instance would have been first established and then the power of establishing a Court of Appeals would naturally have followed. It appeared, moreover, from a perusal of the concluding portion of that article that power was given to create additional Courts. The Court would have appellate civil and criminal jurisdiction, in cases of *habeas corpus*, of extradition and in constitutional cases. The Bill also provided for the

*Hon. Mr. Fournier.*

creation of a Court of Exchequer. Some objection had been made to one of the Bills presented by the hon. member for Kingston for the reason that it gave to the Court of Appeal an original jurisdiction. He would avoid that difficulty by creating two Courts, one of appellate jurisdiction, the Supreme Court of Appeal; and another, a tribunal of the first instance, composed of the same members but being a totally different court. There was ample authority for adopting that course, and he found it in clause 101 of the Constitution. It was proposed to give the Judges of the Supreme Court the same rank as the Chief Justices of the Provinces, the Chief Justice of the court having rank and precedence over all other Judges. The proposed number of Judges was six, which some thought too large a number, and some persons thought five would be a satisfactory number. He thought, however, that six would be a satisfactory number for the present. When the Superior Court of the United States was first organized, it was composed of six Judges, though the number was subsequently increased, and at that time their population was about the same as ours. There would be two court terms, but as power had been given to it to adjourn from time to time, the court would be, practically, constantly in session. All the clauses from 18 to 49 were especially in relation to appellate proceedings. The 50th clause gave the Supreme Court appellate jurisdiction in controverted election cases, for if the law was to be interpreted by the courts of the different provinces, much difference would prevail.

Some alterations had been made in regard to cases of extradition, and some additions relating thereto, so far as the Province of Quebec was concerned. The following was the clause of the Bill referring to the subject:—It was very important to have these cases adjudicated upon by the highest tribunal of the country, because it involved correspondence with foreign countries on treaty matters.

"Any person convicted of treason, felony, or misdemeanour, before any Court of Oyer and Terminer or Gaol Delivery, or before the Court of Queen's Bench in the Province of Quebec on its Crown side, whose conviction has been affirmed by any Court of last resort, or in the Province of Quebec by the Court of Queen's Bench on its appeal side, or any person in custody within the Dominion of Canada, whose extradition is claimed in pursuance of any