

Mr. Cameron in the chair.

The Bill being agreed to in committee, House resumed.

Chairman reported accordingly, when the Bill was ordered to be engrossed.

Hon. Mr. HAVILAND.—As the business of the House is drawing to a close, I wish to call on the hon. Mr. Kelly for the report of the Committee appointed to revise and amend the Act relating to the fees of lawyers and officers of the Supreme Court.

Hon. Mr. KELLY.—As Chairman of the Committee appointed by this hon. House to examine and report by bill or otherwise, on certain petitions praying for the amendment, alteration and reform, of the Act 16th Geo. 3, Cap. 1, passed in the year 1776, intituled "An Act for regulating Fees," was sorry that from the shortness of the session and other causes, the Committee were unable to have their report prepared in time for the House to take action on during this present session, and would therefore have to move that the time for preparing and bringing in the said report, be extended to the first week in next session; but before making such motion, he wished to offer a few observations on the subject. Hon. members of the bar in this house, contended that any interference with the fees and charges of their honorable profession was entirely uncalled for and unnecessary; that their charges were next to nothing in comparison with those of the neighboring colonies or the Mother Country, when forty dollars is often freely offered as a *retainer*, and frequently more than double that amount for a *refresher*, with *similitars*, *replications*, *rejoinders*, and all their other learned terms equally liberal. He (Mr. K.) had with much trouble and difficulty procured, and had now on his table, the Statutes of New Brunswick, Nova Scotia, Canada and Newfoundland, together with those of the Imperial Parliament, on the subject of costs and fees allowed in all their Courts—the whole of which, or the greater part of all the said regulations being prepared and carried through their respective Legislatures by members who were members of the learned profession, who also should have taken up the matter here, and which he hoped the hon. and learned Leader of the Opposition ultimately would assist in doing, as a late brother barrister of his in the old country has not long since done, and to which I beg the attention of the House. On the 29th of April, 1864, Mr. O'Hagan, then Attorney General for Ireland, moved for leave to bring in a "bill to amend the process, practice and mode, of pleading in the Supreme Courts of Common Law at Dublin, which, among other things, he said, was to simplify procedure to destroy technicalities, and other useless forms and fictions in the law, to save heavy expenses, and to avoid the complication of pleadings, and to reduce the whole, as far as possible, to a plain and simple system;" and although strongly opposed by Mr. Whiteside, another Irish barrister, the bill was

then ordered to be prepared and brought in by him (Mr. O'Hagan) and Sir Robert Peel, and something similar to which he (Mr. K.) wished this House to pass. I am aware, Sir, said Mr. K., that one of the hon. members for Georgetown, who imagines himself the fountain of all the wisdom in this House, intends to use his venerable influence against my measure, on the ground that people should keep clear of law and law courts, and there would be no lawyers' bills. I always understood, Sir, that Her Majesty's Courts of Law in this Island, and in all other places, and at all times, were established for the benefit and protection of the people of all classes—the poor as well as the rich—and not for the purpose of establishing lucrative livings for one favored profession; and you also must be aware, Sir, that many a poor man is dragged into courts sore against his will or inclination; and out of a large number of cases and bills of costs now placed in my hands, two or three of them which I will exhibit, will readily convince you that the present application for reform, are not so frivolous as many would wish to pretend. Mr. J. Wisner was sued in the Supreme Court for a trespass in cutting down a few pieces of timber in the forest, for which he paid the then reputed owner the full value. Another person claimed, or pretended ownership of the land, and brought his action. Wisner, who could not well find out who was the true owner of the land when the trial came on, was advised to admit the trespass for a small amount, but was saddled with over £60 cost. But worse was to follow. An unfortunate laboring man named FitzSimmons, happened to be with Wisner, at the cutting down of one tree; he, also, was sued at the same time with Wisner, and although neither witness nor proof of any kind was necessary to be brought against him, or subpoenaed, or called against him, his being the one case with Wisner, he confessed for forms sake, to a judgment of one shilling, but to which a bill of costs of £16 was afterwards attached, for which he was seized and imprisoned in Charlottetown jail, and not having a shilling's worth of property or a shilling's worth of food in his house at the time, applied for the benefit of the Act for relief of Insolvent Debtors, which had he been confined for at the suit of a farmer or a merchant for the supply of flour or necessaries of life, he could, at once, have been discharged; but being for a bill of costs, he was forthwith remanded back to jail, and ultimately had to sell the services of himself and his poor wife, till he paid the last farthing. In another case, a poor farmer named McNally, held a farm of land at Battery Point, Lot 35, and a small island containing about ten or twelve acres, in front of his farm in the Hillsborough River. His said farm and Island are situate almost in the centre of said Lot or Township, and for the Land Assessment of this Island, one shilling and one penny. Her Majesty's Attorney-General, for the year 1864, fyled an information in the Supreme Court, and obtained a judgment for the said sum of one shilling and one penny, with £9 8s. 6d. costs, although the 5th