

country for an offence against the Customs Act, that would be a drastic measure; but my hon. friend who is in charge of the Customs Department would not be so far forgetful of the position of those who sent him, as well as the rest of us here, as to propose any such measure. The hon. gentleman says now: I am Minister of Marine and Fisheries; trust me: what may be done elsewhere does not matter; it will be made right as a matter of grace by me; you cannot trust the courts of the country, because they are ignorant men, who do not know anything about this, but you can trust me. Our judges try cases of a complicated character of which they have no previous knowledge. A judge tries a case of malpractice, and yet he is not supposed to be an anatomist or a surgeon, but he proceeds upon evidence, and I submit that, notwithstanding the pretensions of the hon. gentleman to great ability and superior knowledge, notwithstanding his pretensions to infallibility, the people of this country have more confidence in the courts than they have in the hon. gentleman. They know that the courts have not the same motive for distinguishing between a Conservative and a Reformer, whether he be the complainant or the party complained against, as would have the hon. gentleman or anyone who might succeed him in office. I submit that there is no justification whatever for a departure from the ordinary rules of the administration of justice, so as to take this matter out of the hands of the courts and put it in the hands of the Minister, when in all other matters you leave it in the hands of the courts. Why should you not leave it in the hands of the courts? The Minister of Customs has great powers—some which I think he ought not to have, as I pointed out when the Act was under discussion—but he cannot disregard the law altogether. The parties may go before the courts. The advice and opinions of the hon. gentleman as to the construction of the law may be overruled. You have in the Ayer's case one instance where the Supreme Court differed with the Minister of Customs; but the Minister of Marine now undertakes to guard himself against any such misfortune, for he provides by this measure that he shall be the ultimate court of appeal and that what he says shall be law. This is not done in England or under the common law. There, if a man is a complainant, and therefore entitled to a moiety of the penalty, the Crown may remit the penalty as far as the Crown is concerned, but not so as to take away the right of the complainant. That is not the position of the hon. gentleman. A party may complain, and, if the hon. gentleman chooses to remit the penalties, the right of the complainant is gone altogether. The hon. gentleman tells us that this is consistent with our constitutional system, which, as British citizens, we are supposed to have imbibed, and as British free-men we are supposed to have some rights under, and yet he proposes to place the property of the people of Canada under the absolute control of the Minister of Marine and Fisheries.

Mr. FRASER. I think the discussion has taken a wider range than the Bill warrants. The hon. member for Bothwell (Mr. Mills) says that our legal rights are taken away by this Bill. That is not so. Our legal rights are not taken away, as the hon. gentleman can see, in the case of the Queen *vs.* Todd, where the Supreme Court in Nova Scotia

Mr. MILLS (Bothwell).

decided that any person could appeal from the decision of any magistrates to the Supreme Courts.

Mr. DAVIES (P.E.I.) But there is no right given to the Appeal Court to alter or minimise the judgment.

Mr. FRASER. Neither should there be. The court will hear the whole evidence and decide upon it. This is not like a *certiorari*.

Mr. DAVIES (P.E.I.) But the penalty is fixed by the statute.

Mr. FRASER. And so it should be; and if the Supreme Court finds that it has been rightly inflicted, the penalty will stand.

Mr. MILLS (Bothwell). Why does the hon. gentleman give the Minister power to do what he refuses to allow the courts to do?

Mr. FRASER. The appeal to the Minister is only a matter of clemency. Suppose the case went to the Supreme Court, and the court decided that judgment was right and the vessel should be confiscated. The Minister will not enquire into the case as to whether the judgment was right or not, but he will find whether there were some mitigating circumstances which could not be brought before the court. Now, I agree with the hon. member for Bothwell (Mr. Mills) that we should have as few cases as possible come before the Minister or any Minister—I agree with that principle. The hon. member speaks as if there would be a large number; I would have him understand that a very small number of people would be affected by this law who are engaged in fishing, because, as I said before, the greatest part of the seine fishing is done outside the three-mile limit, and consequently that will not be affected. For myself, while I think I am as radical as most men, I do not see this is a violation of that principle, just because I feel and know that this is not only a nuisance, but the worst kind of a combination, and just because I would oppose any combination upon land, so I oppose this combination by sea, which is against men who cannot protect themselves, and I would strike at it in the strongest possible manner. Now, I do not see that all these troubles will arise, because any man who has a seine will know, when this Act is passed, what penalties are attached to it. This Act is passed in the interests of the fishermen, not in the interest of the man who is rich enough to get a seine and take a big haul; but if, after he knowingly commits an act which the justice of the peace, or the Supreme Court on appeal, considers to be a violation of the law, for one, I have not very much pity for him, and I do not think we are interfering very much with that kind of liberty that is going to build up this country when that man is fined. Now, no man respects the opinions of the hon. member for Bothwell more than I do, and no man learns more from it than I do; but I cannot see that there is any such violation of justice in this principle as he sees, nor do I look forward to all the trouble that he anticipates. I am ready also to admit that the Minister of Marine might, perhaps, sin in the direction of helping a political friend at the expense of a political opponent as much as I would myself, perhaps; I know there is a danger, and while I want the law so applied as to remove that danger, I am willing in the meantime—because this is an act in the interest of the many, and with the full