

ably in a position which might entitle him to ask for a pension. He had passed the time when he might apply for a pension; he had been, I think, seventeen years on the bench, and he was a man with somewhat failing health. For the last seven or eight years, he has discharged very little duty in that Province indeed, and, under those circumstances, it would be no reproach on any one, if Mr. Justice Smith made a request for a pension, to say it might reasonably be granted. But it was an altogether different thing to say that, still occupying his seat on the bench, he should be allowed to withdraw for six months on full pay, and should leave the administration of justice insufficiently attended to. The hon. gentleman's argument, at the opening of his statement, indicated that I was very unreasonable and very harsh—nay, he concluded with the statement that it was an unkind letter which I had written—and the hon. gentleman was evidently anxious to use a stronger expression; and yet he stated that he had now in his pocket letters from two or three Nova Scotia barristers, stating, that in consequence of the breaking down again of the health of Judge Macdonald, great inconvenience has resulted, that the judges have had to skip about from one case to another on the docket, and that he thinks a judge ought to be appointed immediately, though only five or six weeks have elapsed since Mr. Justice Smith died. I think the state of affairs which he pictured, but which, I am afraid, he overdrew in order to make a case against me, is an ample proof that he was wrong in stating that I was guilty of undue severity in refusing to dispense with the services of a judge under the circumstances. As to the imputation that I have hastened the end of Judge Smith, it may suit political purposes, or it may suit the purposes of the hon. gentleman at this moment, under circumstances which excite sympathy for one who has passed away, to make such an assertion, but everyone in Nova Scotia, where the circumstances are well known, would treat the aspersion with ridicule and contempt. Mr. Justice Smith has never received at my hands anything but kindness, and he has been assisted and served by me on many an occasion for the purpose of lightening his labors and his duties. Everyone knows—and I say it with as little reproach to his memory as possible—that Mr. Justice Smith's discharge of duty for the last seven or eight years has been of the lightest possible character, and there was nothing unreasonable, under the circumstance of that court commencing the long winter term, in requesting him to remain and perform his duties, when all he could say was that he was rather unwell, or, at all events, form one of the quorum of four who had to preside over the court of appeal during those months of December, January, February and March. The hon. gentleman says, however, that there had been a certain grief which had broken down the health of Mr. Justice Smith. I do not know how that may be. The circumstance to which no doubt the hon. gentleman referred transpired months before the leave of absence was applied for, and months after that event Mr. Justice Smith was attending to his duties fully as well as he had been for several years before. As regards the reproach which the hon. gentleman thinks falls on me for not having recommended a successor to Mr. Justice Smith, I think the period which has now elapsed since his death

Sir JOHN THOMPSON.

is not more than five or six weeks. The hon. gentleman's haste with regard to filling the vacancy indicates that he is anxious that an appointment should be made, which he supposes will have to be made in an embarrassing manner and in a manner that will aid him politically. As regards that appointment, I will answer by saying that the two gentlemen upon whom he has fixed attention, to whom he has referred in such complimentary terms with the view of assuring me that either one of them would make a good appointment, and advising that I had better appoint either one immediately, are, as he says, contesting two counties in the Province of Nova Scotia; but he is entirely mistaken in supposing that they are contending candidates for the vacancy made by the demise of Mr. Justice Smith. Those gentlemen deserve all he has said of them; they are both highly qualified, and either one of them, I am sure, would adorn the bench; but they have too high an appreciation of their position as professional men to be "two contending candidates," as he styles them, for a judicial position, I am sure, at any period of their lives, much less now; and they are by no means the only gentlemen in that Province on whom an appointment of that description could be with propriety conferred. But the hon. gentleman has asked the House this question: If it were so unreasonable that six months' leave of absence should have been given to Mr. Justice Smith in the month of October, how can I possibly justify the leaving of that position unfilled now? Why, the hon. gentleman forgets that this is by no means the month of October, and that the long term of four or five months to which I called the hon. gentleman's attention, and during which the judges would have to sit, four of them, every day of the week from ten to four o'clock, has passed by, and the long docket, to which I called the attention of Mr. Justice Smith as having to be disposed of, has been almost disposed of. The Supreme Court of Nova Scotia is now, if not at the close of the docket, very nearly so, and about two weeks ago I had a letter from the head of the bench there regretting very much the absence of Mr. Justice Macdonald on account of illness, but indicating to me that the docket was practically then within reach, and would be dispatched notwithstanding his illness. I had at the same time a letter from Mr. Justice Macdonald stating that he was able to inform me that though he had been obliged to leave the city on account of ill-health, he felt very much better than he had expected to feel. Under the circumstances, the hon. gentleman will see that the confusion in the administration of justice, which would undoubtedly have resulted if leave of absence had been given in the month of November, is not serious at the present time, owing to the fact that the docket has been disposed of, and owing to the fortunate circumstance that Mr. Justice Macdonald's health lasted until the docket was practically within control, and that the spring circuits, which are next on the judicial programme for the Province, have already been provided for.

Mr. JONES (Halifax). I listened with a good deal of interest to the observations of the Minister of Justice, and I do not take great exception to much that he said, except the turn which he endeavors to give to the observations I made on