

Another clause read.

HON. COLONIAL SECRETARY.—In case the Chief Judge was Administrator of the Government, we would only have two Judges.

MR. BRECKEN.—I am not certain that the fact of the Chief Judge acting as Administrator of the Government disqualifies him from acting as Judge, for he is not appointed to that office on account of his talents or standing in the community; but it is by virtue of his office as Chief Judge, that he is appointed Administrator during the absence of the Lieutenant Governor. Though it would not be a wise policy for the Administrator to act as Judge, as a general rule, yet if, by the death of the Assistant Judge, or anything that would render it absolutely necessary, he were called upon to do so, I do not think there is any rule to prevent him.

Several clauses were agreed to.

Mr. Brecken moved that a clause be added to the bill providing that there shall be paid to the person who shall be appointed Assistant Judge, the sum of £500 per annum, payable quarterly.

MR. P. SINCLAIR.—Mr. Chairman, I have been rather opposed to this bill from the first, but it has been pressed on us by the lawyers. The hon. member for Charlottetown has been the principal advocate for it, and his main argument for the appointment of a third Judge was, the difficulty under which we were laboring, on account of the Chief Judge being incapacitated from sitting on the bench, on account of acting as Administrator of the Government; but to-day he said he could see no reason why the Chief Justice should not take his place in Court. If this be so, I think there is no necessity for this bill the present year; and I think the people have taxes enough to pay already, without putting this additional burden upon them.

MR. BRECKEN.—It is not advisable, nor is it right, that the Administrator should sit upon the bench. I only remarked that in cases of absolute necessity, there should be no objection to him doing so; but it is not right, as an ordinary thing, that the same man should be found one day at the Council Board, and the next on the Judge's Bench.

HON. LEADER OF THE OPPOSITION.—It appears that, notwithstanding the wariness and legal acumen of the hon. member for Charlottetown, he has been caught in a trap laid for him by the hon. member from New London, (Mr. P. Sinclair.) I do not agree with the hon. member for Charlottetown. I do not think that the Administrator would be justified in sitting as a Judge on any criminal case. Suppose for sake of argument, that during the time the Chief Justice was administering the Government, one of the newspapers of the Colony contained a very libellous article against the Government, and the case was brought up before the Government, with the Chief Justice at its head, and they decided that the Editor of that paper should be brought up before the Supreme Court, would it

be right that the Chief Judge, having prejudged the case, should sit on the bench and pass sentence upon that Editor? Cases often occur where a Government enters actions against individuals, and it is a rule that no Judge shall have anything to do with Executive functions.

MR. BRECKEN.—There is no doubt but that in such a case as that supposed by the hon. Leader of the Opposition, the Chief Justice being head of the Government that ordered the trial, would be to a certain extent interested in the case, and should not sit as Judge; but I referred to Civil Cases, and I am not so sure that the Chief Justice, on account of being Administrator, would be disqualified from sitting on the Bench and deciding Civil Cases.

HON. LEADER OF THE GOVERNMENT.—It is quite unconstitutional for the Administrator to sit as Judge on criminal cases, for it would be incompatible with the prerogative of mercy which he has as the representative of Her Majesty, for him to pass sentence on a criminal. This is the view the Administrator takes of it, and he accordingly refuses to act as Judge at the present time.

Clause agreed to.

The Speaker took the Chair and the Chairman reported the Bill agreed to.

On motion of the hon. Leader of the Government, the Bill to appropriate certain moneys therein mentioned, was read a third time and passed.

HON. MR. HENDERSON.—I wish to ask the Government what action they intend to take upon a petition from the inhabitants in the vicinity of Montague Bridge, praying for the establishment of a Custom House in that place.

HON. LEADER OF THE GOVERNMENT.—I may say that the Government do not intend to establish a Custom House at Montague Bridge the present year, but with the growing business at that place, I think the time is not far distant when a Custom House will be established there.

HON. MR. KELLY.—As Chairman of the Committee, appointed to report upon certain petitions, praying for a reduction in the fees charged by lawyers, I beg leave to state that on account of the almost impassable state of the roads, and the unfavorable condition of the weather, parties from the country, whom the committee wished to examine, could not get to town, and I intend to move that this matter be deferred until next session. I may say that I expected the hon. Leader of the Opposition would have assisted the committee in making out a Bill.

HON. LEADER OF THE OPPOSITION.—I promised the hon. member that I would give him any information he required, but he has never asked me a question on the subject.

HON. LEADER OF THE GOVERNMENT.—This is an argument in favor of building a railroad, for if we had the rail-cars running to the extreme ends of