to administer. He therefore considered it of the first importance to fix some particular period, and he had selected the accession of His present Majesty to the throne, as being an historical epoch which it would at all times be convenient to refer to; and as it so happened that all the improvements which he thought important and desired to see introduced here, were enacted during the late reign.

Some of the improvements were of a technical nature, not affecting the substantial meaning of the law at all, but removing certain impediments to its execution, which had, through a series of ages, gradually grown up and obviously required amendment. To give hon, gentlemen, who were not professional, an idea of the technicalities to which he alluded, he would mention one out of many in that branch of the law which related to criminal prosecutions. In many indictments, as well for misdemeanours as for other offences attended with either actual or constructive force, it had been determined that the words "vi et armis," with force and arms, were essential to the validity of the indictment, though it was plain they could not partake of the essential merits of the case, and therefore an act of the British parliament had rendered this technical precision unnecessary in this as in a great number of similar instances.—Other improvements, however, of far more importance had been made in the laws themselves—they had been classed under distinct heads, with their appropriate punishments in one act. Some punishments had been abolished and others introduced more in accordance with the spirit of the age; and the whole code of criminal law had undergone important amelioration, which any hon. gentleman would perceive by an attentive perusal of Peel's Acts, and some others passed during the latter part of the late King's reign, all of which he was anxious to see extended to Newfoundland.

It had been said that by introducing the laws of England into the colonies, the judges had been clothed with a legislative authority; but no one could entertain a greater objection to Judges being possessed of such legislative authority than he (the hon. gentleman) was; because the parties litigant in any matter would be unable to know the principles upon which their case would be decided. It might enable the Judge to introduce laws which no one else would think of; nor would the counsel in such a case be enabled to advise his client, from the impossibility of determining the principles upon which his case might be decided. It was true that some people who were ignorant of the law thought the Judge should be clothed with authority to decide upon what were vainly called the principles of equity and good conscience. But that was a wrong view of the matter, because people differ as to what is equitable and just, as we see in the ordinary concerns of life, and it was quite clear that unless fixed principles were laid down, the judge might be governed by arbitrary rules, and such as might suit his own private ends. It was most desirable that the construction of the laws should be reduced as far as possible to a certainty, and that as little discretion as possible be left,—not only for the respectability of the Bench, but for the interest of suitors. He was of opinion that the laws of England should be introduced generally, not so far as the Judge might think them applicable, but so far as they could be enforced here; and the only question for the court to decide would be, "What is the law of England on this point?" If it be left to the Judge's discretion to say what law he thinks applicable to the country he is in, it is clear that he will be proceeding, not upon principles of law previously laid down and defined, but upon his own notions of expediency, which may differ from those entertained by every other man in the community; and it will be always impossible, until a particular case is brought before him, what law he will recognize as the rule to govern his decision. If any of the laws of England be found inconvenient, they may from time to time be altered now that we have a local legislature. He would therefore declare them to be in force generally; and he thought it desirable that they should be permanently fixed, and then in the course of their operation, it might be found what portion of them is really inconvenient. It was said that many of the laws of England were not framed with any reference to the state of society in this or any other colony. This is undoubtedly true, not only of many but all the laws of the parent State—they are framed for the convenience of the people in England in every particular, but then we being accustomed to them very naturally would prefer them as a general code of laws to those of any other country; and consequently when establishing by what laws we will be governed, we select those which are most congenial to our habits and way of thinking. We might introduce the law of France or of America, but no sensible man would propose such a thing to a community of Englishmen. As the legislature introduce the law, so they may from time to time modify it, and adapt its provisions to our situation. This is the course which he had seen acted upon for some years in Upper Canada without any inconvenience, and as he was rather inclined to follow example when held by experience, than launch out into any new course although apparently very likely to be a good one, he was disposed upon this question to no nothing more than simply fix the point at which the English law shall be regarded as the rule of decision, leaving it to the legislature to make such additional local provisions as the state of this colony may require.

He was of opinion that the laws of England generally including the statute law to the 5, Geo. IV., so far as they affected property and civil rights, are the law of Newfoundland now, and therefore if that be an inconvenient state of things the legislature have the subject fully before them and can alter it.

FRIDAY, FEB. 21.

Debate resumed.

The SPEAKER observed that the only part of the preamble of the bill upon which any question might arise, was that part which respected the doubts which had been entertained as to the period up to which the law of England should be taken for the rule of decision here; but it was not necessary to go into that preamble; when they came to the enacting clause, as to the particular period at which the British laws should be taken as a guide—some discussion might arise. He thought there could be no objection to a period being fixed, and to the adoption of the improvements which had lately taken place.

The ATTORNEY-GENERAL pointed out a clerical error in the preamble of the bill, which had referred to the 4th year of his late Majesty's reign instead of to the 5th.—It was superflous for him to make an observation that must be obvious—that the Bill was one of the most important that could be introduced, and which would go largely to affect the general interests of the inhabitants of this country. It would therefore require deep consideration, and he would urge hon. gentlemen to weigh well the effects of the Bill before they passed it into law. His mind was not yet prepared to embrace the extent of the Bill either in its principles or its details. It had only been put into his hands yesterday, He had from indisposition been prevented attending at the first reading, which he regretted, because what had then fallen from the hon. and learned mover, might have directed his attention to the points which were then suggested.

The Bill involved considerations of great importance; for the civil law would be affected as well in its jurisprudence as in its judicature. He concurred in the object of the Bill, which proposes to settle how far the English law is applicable here; for it was quite a desideratum that this should be determined. It was a subject to which some of the most able men among us had directed their attention, but they had been unable to discover the application of any fixed rule to guide them. If we had no laws already among us, there would be no difficulty in deciding what portion of the English law would be applicable; but there was a code of laws among us, made up of usages incident to our present condition, as well respecting the jurisprudence as the judicature; but still there were many evils that ought to be remedied. It was an evil that criminal justice could not be administered out of the town of St. John's; and it was an evil that the poor, living in remote parts, had not that administration of justice among them which they ought to have, and which the legislature intended they should enjoy. But the Surrogate Courts could carry the law every where, under the imperfections, of course, incident to those courts.—It had been found impossible that three Judges could dispense justice equal to the demand. There was a superior court, invested with all the authority possessed by any courts in England; but that to the inhabitants of the outport was in a great measure shut;—then we had Circuit Courts, but a full measure of justice could never be attained by these, because of the unsuitable periods of the year at which the circuits are made by the Judges and their necessarily short stay. The Circuit Courts, out of St. John's and Harbour Grace, were inefficient. The head and front of the evil was the want of justice out of St. John's, both as regards the judicature and jurispru-