

not know; but surely a portion of it could not be put to a better use, than that of maintaining the independence of the highest judicial functionaries in the Province. The mode of payment by fees, he never liked; but in the absence of a more dignified system, he would rather see it prolonged than to make himself a party in hunting down the men, who, of all others in the Province, had the strongest claim for protection. And when, or where, he would ask, was this agitation to cease? Was it to end now or never, or with £600, £500, £400, or £300? Would the man who wished it placed now at £500, be satisfied with the same amount hereafter? He feared not. And as he could never consent to the reduction of these salaries, except prospectively, he would now move that the further consideration of this bill be postponed for three months.

Hon. Mr. Brown said, that if the subject had become one of annual discussion, it was not at least the fault of their honors, as it had its origin in another quarter; and the question here was, would they, or would they not, give it their concurrence. It was true that his honor the Solicitor General had made a most eloquent speech, and had argued the case in reference to all its legal bearings; and he (hon. Mr. B.) would not contest a point of legality with his honor; but it appeared to him that the only light in which he could view the subject was, whether or not £700, and £600, was not enough of salary for the Chief Judge and the Puisne Judges, respectively; and whether large salaries, raised as they were, from such a variety of sources, should not be reduced, when the circumstances of the times appeared to require such reduction. The question had now been discussed broadly and clearly on both sides, and in both branches of the Legislature; but it was accompanied with this singular anomaly, that while Her Majesty's Ministers now seem indisposed to touch the salaries of the Judges, they at the same time promulgate the doctrine that the local affairs of the Colony are to be left under its own control. It had just been stated by an hon. member, that this service might be paid from the surplus Civil List Fund, but this project had not been confirmed in the House of Assembly; for however willing the members of that body might be, in ordinary cases, to place certain objectionable grants on that fund, they had not in that instance complied. He recollected an occasion when the leader of the Government in the other branch, had declared that he would advise the Government not to comply with the principle of this bill; but he (hon. Mr. B.) shortly after saw a despatch from Lord John Russell in the Royal Gazette, having reference to the whole Colonial empire, and declaring that the Colonial Assemblies had a right to legislate on local matters connected with their own interests. It was in accordance with this Despatch that the Judges' salary bill had been introduced, and he (hon. Mr. B.) had then told the Attorney General that it was in vain to offer the bill further resistance, as it must ultimately be pressed through by the pressure of public opinion.—But a new doctrine was introduced, and a bill founded upon it was sent up here, but at so late a period of the session, that he thought it nothing more nor less than an insult to the Council. This bill could not however be viewed in that light; it was fairly before their honors; although with this singular drawback, that while Lord John Russell says one thing, Earl Grey says another; and the subject, so far as related to any instructions from home, was left undecided. True, their Lordships did not appear to know what they were doing; but, as the bill is now here, and as of course it must be decided, he (hon. Mr. B.) would vote according to his own convictions, untrammelled by any consideration beyond his belief that the sum of £600 per annum was salary enough to maintain the Judges, independently of any body, legislative or otherwise, in the Province. He would be glad to see a commutation of the fees given from the Civil List Fund, but as that had not been done, and as he must say yea or nay to the bill, his conduct would be guided by his convictions; and he was conscious that the same amount of confidence would be placed in the Judges, without as with the fees. As for annual investigation it could not be helped. ["Establish a principle," by hon. Mr. Botsford.] He would repeat that it could not be helped; it originated in another place, and could not be suppressed here. He (hon. Mr. B.) would not wish to deal out to the Judges such a paltry sum as would be inadequate to insure their comfort and independence; and if he thought even their present salaries were not large enough, he would increase them; but he had brought himself to the conclusion that £600 was quite enough in these times to live upon, and he would vote for nothing beyond it.

[Here the hon. Mr. Hazen, and several other hon. members stated that the bill would, if passed, unavoidably repeal all the ordinances in the Province. Some supposed that the amendment proposed by the hon. Mr. Hill would be concurred in by the lower House, as it went only to relieve, not to increase taxes.—Hon. Mr. Chandler said that it was all the same in principle; it affected the system of taxes, and could not therefore be assented to below.]

Hon. Mr. Chandler thought if the bill were rejected, as of course it must, it would afford

an opportunity for commuting the fees in some moderate way in the lower House, when they again took up the subject for consideration.—The country at the present period had important interests at stake in England; and it was not the time to let any trifling matter find its way home to our prejudice. The more moderate our views and measures were known to be in England, so much the more would we be deemed the objects of public favour. He had never thought that it was a safe principle to legislate upon the mere technical wording of certain letters or Despatches; he would rather take the general spirit of the constitution, and be guided by its well known wise and provident character. He felt disposed to give a moderate commutation in lieu of the fees, but to be extended only to the present Judges; and as that slight amount would come out of surplus Civil List Fund, it would not even touch the revenues of the Province. He believed, notwithstanding all that had been said, that those fees were the means of stopping a great amount of litigation in the Province; for it was well known that Attorneys were often checked in bringing new cases, by the present amount of the Jury fees. It would, if passed, relieve professional men from the taxes which they are bound to pay on entering cases, while, on the other side, by leaving the fees as they are, young practitioners would be deterred from the impetuous character incident to persons on their first entering into the profession of the law. He wished hon. gentlemen to view this subject coolly and deliberately, and he hoped that the mover of the bill in another quarter, would himself see that it would not accomplish the object for which he had intended it. A moderate commutation of £75 or even less, would he thought be the best means of preventing the whole difficulty in future; but at the worst, the members of the other branch might pass a similar bill under another name, and free from the mistake which places the hon. members of this House in such a position that they cannot pass the bill as it is, without throwing the whole country into confusion, and that they cannot constitutionally amend it.

Hon. Mr. Hazen inquired what would be a moderate commutation. A commutation in order to be just must be based upon some right of the individual to whom it refers; but nine tenths of the fees upon which the hon. member had proposed to fix his commutation, the Judges were never entitled to. He would, upon the whole, risk the amendment of the bill, as the effect of passing it in its present form would be to repeal all the ordinances in the Province.

Hon. Mr. Hill read from the rules of the House of Commons, authorities for the amendment.

Hon. Mr. Chandler replied, that the rule quoted applied only to the most unimportant cases.

Hon. Mr. Harrison said, that by passing the amendment it would give the lower House and the country a proper idea of the favour with which their honors regarded the bill; whereas by throwing it out, the views of hon. members would probably be mistaken.

Hon. Mr. Steves thought that it would be much better to pass the amendment and the bill; and if it were to be thrown out, let it be done below. Should it be rejected in this honorable House, the cause of its being disallowed would be comparatively unknown. He doubted very much whether a commutation bill would be passed in the other branch; for the subject of those fees would still continue to be agitated, and for this plain reason, that most persons like the hon. member (Mr. Brown) thought that £600 was enough. He would therefore vote for the amendment, and if the other branch thought proper to reject it, they might do so; but in the meantime the true sentiments of this honorable House would go forth to the country.

Hon. Col. Hatch,—“If we pass the amendment, it will be thrown out below; if we pass the bill, it will repeal all the ordinances of the Province: all we can do is to reject the bill, it is the only parliamentary course which can be taken.”

Hon. Mr. Saunders said, the difficulty had arisen in a misconception. The lower House had intended to reduce taxation, but through this mistake they had abolished it. The evident design was to apply only to the Judges, for the general principle could not be entertained.—The Council had always exercised the right of amending bills, which did not involve the collection or expenditure of money; but over these they had no control. It was enough for the Council to maintain its own privileges, and act as they thought right and necessary.

Hon. Mr. Chandler said, the Council had contended that it had a right to a voice in the disposal of grants from the Civil List Fund; but even that the House below would never consent to. Such an attempt as that of altering a money bill had never been made in the Council.

Hon. Mr. Botsford remarked, that the House of Lords, upon whose practice that here is founded, never attempted to amend any bill which embraced the principle of a toll or fee or penalty. It was better that their honors should not overstep the long established usages of the constitution. Such a course could only end in defeat and disappointment.

Hon. Mr. Hill again contended for the amend-

ment. Every one of their Honors knew that the intention of the bill was not to destroy the general ordinances of the Province; and the quarter where the mistake was made, surely could not object to its amendment; on the contrary they would thank those who set it right. One of his (Hon. Mr. H.'s) objections to the general course pursued in legislation, was the constant attention paid to the letter of bills, while their evident spirit was lost sight of.

Hon. Mr. Chandler would ask his hon. and learned friend how he, as a legal man, could go behind the manifest letter of a bill, to seek for its invisible spirit? It was not upon what hon. members believed or suspected, but upon what they saw before them, that hon. members could legislate.

Hon. Mr. Brown said, the preamble of a bill is always supposed to fix its character; and the character of this bill is well defined, and affected only the Judges. [Here the hon. member read the preamble.] [“Read the rest,” by several.] He believed that if taken as one whole ordinance, then it repealed all; but if only a part of an ordinance, it would carry out the principle of the bill.

Hon. Mr. Hamilton observed that the position laid down by an hon. member, that £500 would be as much for a Judge as £600 would be for the Province Secretary or the Surveyor General, was one which he did not believe. In fact, he thought just the reverse. He thought the pecuniary independence of the Judges should be maintained under all circumstances; and if their fees were abolished, he would give them a commutation. He was against the Judges receiving fees, and when the bill was introduced in the lower House, he understood that an amendment would be moved or a new bill brought in for commuting those fees, by an addition to the salary; and this was what the Judges had wished for. This, however, had not been done; and in that case he must vote for the motion of postponement. Should the postponement of the bill not be carried, he would then vote against the amendment, and when the bill came up again in another shape, he hoped it would be honestly dealt with. The Queen had withheld her assent to a similar bill, and he would trouble the Government twice with the same question. He believed that Judges in this Province had already been treated unjustly, and in bad faith; and as he considered them gentlemen of whom the Province should be justly proud, he would lend himself to no measure which would affect their independence or injure them in their judicial capacity with the people.

Hon. Mr. Gilbert said that the law was a luxury, and those who enjoyed it should pay for it; but there were many to whom it could give no enjoyment. He thought it exceedingly strange, that after the House of Assembly had passed a bill to do away with an evil under which the Province had laboured for 70 years, their Honors would now refuse their assent to it.

Hon. Mr. Wark said, that at a time when the Province was suffering under the most extreme depression, and when the revenues had fallen off as much as £40,000 in one year—the public salaries still remaining very large, some of them as high as £1500—he had brought in a measure for the general reduction of public salaries. He believed that at that time those reductions were absolutely necessary; and that offices which received £1500 or £2000 per annum, would be as well conducted with one half their respective salaries. But when a bill was introduced, which singled out the Judges alone, and left all the others untouched, then he opposed it, for he believed the salaries of the Judges were the very last that should be reduced. He saw that their salaries were given by their Commissions, and he would not consent to the reduction, while the present incumbents held office. He had heard the speech delivered by the Hon. Judge Parker at the Bar of the House of Assembly, and whatever he might think of the policy of the Judge in that particular, he must say that some of his arguments appeared to him (Hon. Mr. W.) unanswerable; at least they never were answered. The question with him was not whether £600 or £700 was or was not enough for a Judge to live on, but whether a great British principle should be violated. It was now conceded that the Attorney General was *ex officio* leader of the lower branch, and consequently the most influential person connected with the pecuniary affairs of the Province; and he (Hon. Mr. W.) would ask, whether it was right that an individual who was one day pleading his case in Court before the Judges, should on the next have them at his feet in the House of Assembly. The Attorney General might not always be a good man; although a clever politician; and it was a dangerous principle to invest him with such extraordinary powers. He would not therefore hamper the Judges: he would leave them independent as in England and in the United States, by allowing them to retain their present fees and salaries.

Hon. Mr. Ryan observed, that the Hon. Solicitor General had taken great pains to establish the fact, that because fees had been so long sanctioned in the Province, the principle must therefore be right. [Hon. Solicitor General.—“I did not say so, I said that those usages had been established by a number of Acts of the Provincial Parliament.”] It was of the fees,

not the salaries, that he (Hon. Mr. Ryan) was speaking; and he believed that they (the judges) never were entitled to fees. He would still go farther; for he would take from the Lawyers too those fees to which it appeared they were not entitled, for two wrongs never could make a right. He therefore was in favour of passing the amendment, and the bill also; for he was not one of those who thought that the reduction of £100 in the shape of fees, would in any way affect the independence of the judges.

Hon. Mr. Hazen said, if the Lawyers were in the receipt of salaries of £600 a year, it might be well to talk of taking away their fees as well as those of the Judges; but as that was not the case, it would be a singular thing to take away their fees. The case was just the reverse with respect to the Judges; and he (Hon. Mr. Hazen) was fully prepared to argue the case in Court or out of Court, that those fees were illegal inasmuch as they were taken without licence.—He had argued that case before, but the Judges decided that they had the right, and there being no higher authority to appeal to, he was forced to let the case rest. It had been an unpleasant part of his duty, to state those opinions to the Judges. They might say they were entitled to those fees because they were willing to try the cases; but it was one thing to be in readiness to try a case, and another to enter into its full investigation, as must be done in the case of the Attorneys.

Hon. Mr. Davidson stated briefly that he was wholly opposed both to the bill and the amendment.

The division was then taken on the question of postponement.

Content.—Hon. President, Hon. Messrs. Chandler, Solicitor General, Botsford, Peters, Hatch, Saunders, Hazen, Minchin, Harrison, Brown, Odell, Wark, Hamilton.—14.

Non-Content.—Hon. Messrs. Hill, Connell, Steves, Ryan, Gilbert.—5.

The bill was consequently rejected.

BEAR FIGHT IN CONGRESS.—A short time since, says the Boston Sunday News, two representatives from Mississippi had a mutual knock-down. Mr. Brown had been speaking on the Southern Rights question, and was answered by Mr. Wilcox. Shortly came a muss. The affair is reported as follows:

Mr. Brown—I desire to ask my colleague, does he mean to say I have been guilty of a falsehood? The inference may be left on the minds of some gentlemen.

Mr. Wilcox—I have spoken boldly. My language cannot be misunderstood on that point.

Mr. Brown—Do you mean to say that what I have stated is false?—(looking sternly at his colleague.)

Mr. Wilcox—If you mean to say there is nobody in Mississippi in favor of secession, it is false.

The last word was scarcely uttered before Brown drew off and planted a blow in Wilcox's face. Wilcox returned it, and both clinched.

In a moment the House and galleries were thrown into the wildest alarm and confusion, those in the galleries stretching over to see the fight, while the members jumped from their desks, and flew to the scene of conflict. Several moments elapsed before the belligerents were separated. Brown with difficulty was rushed fifty feet from his antagonist. Wilcox jumped upon his desk and cried—“I can whip him! let me go!”—brandishing his arms in the air.

Cries of—“Where's the Sergeant-at-arms!”—“stop the fighting!”—“My God, has Wilcox got a knife!”—“No.” A hundred voices joined in the confusion, calling for the Sergeant-at-arms, the officers, &c. Several of the runner boys were knocked over in the excitement.—The greatest alarm prevailed.

During these proceedings the speaker hurried in and resumed the Chair, knocking and demanding order.

Mr. Bayly's voice was heard above the din, saying, I demand the Sergeant-at-Arms to take these persons into custody.

The speaker continued knocking, saying in the intervals—The Chair (knock) will have (knock) no proposition until order is restored. (Knock, knock.) He then requested the Sergeant-at-Arms and other officers to perform their duty.

The Indians are proving very troublesome in California, particularly to the owners of cattle. An old settler at Los Angeles states that the value of sheep, alone, stolen from drovers and overland emigrants exceeds \$110,000, during the past year.

Taxes in California, are getting to be very onerous. The assessments, for the ensuing year, upon real and personal property, will be 40 per cent higher than they were last year.