

opinions of Mr. Speaker Papineau. Should the House sleep over this matter from year to year, and not make some alteration in the system?—He (Mr. S.) hoped the committee would divide on the question, and let the country see that, at least, some few members would stand up against this improper grant; this very lavish and improvident grant. If the Judges were confined to their proper duties, he would then certainly be for giving them a very liberal salary; a salary not dependent on any contingencies, but settled for life, or during their continuance in office; but he never would consent to it while they possessed so much power. He hoped a great majority of the Committee would deem it expedient not to continue the bill, except so far as to grant £250 to the Circuit clerk.

Mr. Partelow observed, that his Hon. colleague had wandered in so strange a manner in his argument, that it was almost impossible to reply to him. He had certainly given the House a great deal of valuable information, as to the various powers of the Judges, &c. which it would have been very useful the other day, when the House was in Committee on the general state of the Province, and might then have induced the House to address His Majesty on the subject. But he (Mr. P.) asked his Hon. colleague, what on earth it had to do with the bill now before the House? The simple question now was, is it expedient to continue Circuit Courts or not? He (Mr. P.) would confine himself to this question. The Hon. Member (Mr. S.) had talked about adding to the cares of the Judges by giving them more money. He (Mr. P.) believed the Judges were perfectly willing to put up with such an addition of cares. He had not the smallest doubt of that. As to the sum total of the present salary of the Judges, his Hon. colleague had very modestly calculated the rate of exchange and premium on bills, and had thus stated that the Judges enjoy 900l. a year each. But the proper way to ascertain the real amount was to take the various sums. [Here we lost a few words.] He (Mr. P.) was of opinion that the full amount was no more than 800l. currency. That he would consider a very fair salary, if the Judges did not travel the Circuits. It would not be too much, even if they were confined to the Courts in Fredericton; and they should therefore be allowed a fair and reasonable sum for travelling charges. Whether it was proper for the Judges to take fees, was not the question now; but he (Mr. P.) trusted that the labours of the Committee of which his Hon. colleague was a member, [Mr. P. did not say what Committee] would bring up the question, as to putting the Judges on a permanent and handsome salary; very near to 1000l. That sum in comparison to the salary of other officers in the province would not be by any means too much. [The Hon. Member then made two or three remarks as to the Circuit Clerk.] He (Mr. P.) would like to know, whether the Judges were bound to go to the Circuits and whether they would go, if the House did not provide for their expenses. If they were not bound to do so, and did not go, then the burden and the expense of the attendance of witnesses, parties, &c. at Fredericton, would render it imperative on the House to devise some provision for Circuit Courts.

Mr. S. Humbert would not say whether the information given by Mr. Simonds was relevant or not; but as to his assertion, that increase of money gave increase of care; it was one of the cases continually occurring in human nature. It was a general maxim, that the more he gets the more he wants. As to the question, The Judges some years ago, it was supposed had an adequate salary for all their services. They then travelled the Circuits, and did the duty, without even asking for an increase of salary. They were content, the Province was content; and all parties were content. But, somehow or other, at length an increase of salary was wanted. At that time such was the demand, and perhaps there might have been a necessity for it, that one of the Judges actually went home to England for the express purpose of asking an increase. His labours proved effectual; he obtained his request; and no doubt there was great triumph over the result of his mission. Bye and bye it came out that the Judges wanted more salary; but, prior to that, after the decrease of the Judge already mentioned, the province made handsome appropriations to his family, on account of those very services, in leaving this country and getting the Judges that salary now paid from England. But the mind of man was always expanding and extending; the more he gets the more wants. Then came the Judges bill before the House. For several years it was decidedly negatived; but at last, after a great struggle, it passed in 1826; and the appropriations were granted. But what was the purport of the Bill, and why were those appropriations granted? Look at the act itself. It was to defray the necessary expenses of the Judges, in holding all Courts then or thereafter to be appointed. This enactment comprehended all their services then and all their services now. It was a compensation for holding all the Courts to be appointed thereafter. Was it not then contemplated at that time, that no further demand should be made? He (Mr. H.) believed it was; that it was the intention of the House when it passed that law, that no further appropriation should be made. It was most extraordinary, then, that another demand should now be made. If the House could not lay its hands on the casual revenue, and have the control of its civil list, it ought to grant no further allowances. [The rapidity of the Hon. Gent. here gave us only a few unintelligible scraps.]

Mr. Chaudler said he rose with very great reluctance on this question; because his professional character might induce an opinion, that he was influenced by professional prejudices. But he solemnly assured the House, that he had endeavored to bring as much impartiality, as much calm and unbiased deliberation, to this question, as any other hon. member. The first question was as to the necessity of this measure. He (Mr. C.) had no doubt, that if the House merely looked at the ordinary conveniences of life, that the Judges were well paid now. But he contended, and he could, if necessary, produce authorities to prove that the Judges should be placed in a situation above all, or any thing like want. It was a maxim admitted on all hands, that they should be rendered completely independent, both of the crown, and the people at large. Their stipend should be such as to induce the very first professional men to undertake the office. If the salary was small, who would go into the situation? It was always always good policy, and one of the wisest things any government could do, to make the Judges wholly independent. The amount given them ought to be such, as to render them utterly inaccessible to any pecuniary temptation. They should be independent in property, in station, and in every circumstance. Mr. S. Humbert was correct, it should next be seen, what the Judges

of this Province now are. The duties of the Judges were, to hold the supreme court—the four courts ordained by law, and they were bound only to hold these courts. Their commission did not compel them to go the circuits. On the contrary, he (Mr. C.) would state for the information of hon. members, that the Judges have it in their power, in every cause which must by the law be tried by a Jury of the county where the cause of action arises, to compel a Jury, even from the most remote county in the Province, to come to Fredericton. Witnesses, Jury, and all parties must, if the Judge require, come here to the trial. That was a power which the judges possessed, but to which they had never resorted, and to which he (Mr. C.) trusted they never would resort. But he mentioned it to show what was the actual fact. As to the judges' fees, &c. it had been shewn by Mr. Partelow, that the whole amount of their salary was about 800l. currency.—Granted. If the Committee were of opinion, that this sum was amply sufficient to pay the judges, for all purposes and for all services, then there was an end of the question. But the question now really was, not as to any increase of salary, but whether a bill which had been in operation five years, should be renewed; and if so, for how long. For his own part, he (Mr. C.) would not be inclined to renew it for more than two years, under present circumstances. But the bill had been found very useful, very salutary; and if it were not now passed, the old system might again come into effect. He would urge the renewal for two years, till the question of general law reform should be decided. As to the power of the judges. Here also, he [Mr. C.] felt that he had a very painful duty to perform, as far as regarded the present judges, because one of them stood in a near relationship to himself. But he believed that individual would not long retain his present situation. He [Mr. C.] could venture to assert, that if that judge's resignation should be accepted at home, he would vacate his seat in the Council before another session. In the first place, then, as to the power of judges; the judges sat in the council from the very necessity of things. It could never be contradicted that such a system was inconsistent with the theory of government; but he would ask, whether under all circumstances, the talents, the wisdom, and the influence of the judges of this Province, are exerted in the Council, had not been generally found useful and beneficial. It was from necessity alone that they were placed there. The moment they received their appointment to office, they went into the Council. But their situation as councillors was no sinecure: their duties were very arduous; and they received not one farthing for attending the Council, and discharging their duties there. As to patronage. He [Mr. C.] would ask, what particular patronage, possessed by the judges of this Province, gave them such material advantage as had been mentioned! Did the appointment of magistrates, or of the officers of the courts give it? What official appointments in the whole country gave such a profit as had been implied? Where were there such offices? Where was such patronage, and where had it been exercised? If he [Mr. C.] were made a judge to-morrow, he should not weigh the patronage as half equal to the labour of attending the Councils during a whole session, for which they received nothing; while for a similar period, every Member of that House would receive 50l. or 60l. But as to the unconstitutional power possessed by the judges. The House had been told by Mr. Simonds, that they had exercised it in a manner obnoxious to the privileges of the people, and the attention of the House had been called to a particular instance. Now he [Mr. C.] was astonished to find, that in the course of thirty years, only one such circumstance had been pointed out; and he was still more astonished to find, that in that circumstance, every step had been maintained in perfect accordance with the constitution of the country. [The Hon. Member then spoke to the particular circumstances detailed by Mr. Simonds, respecting the question formerly at issue between the Council and the House.] It was extraordinary that in the whole career of the Council, only one such instance could be pointed out. He [Mr. C.] thought, if the whole proceedings of the Legislature from its first organization, were reviewed, it might be found that some of the proceedings of the House of Assembly had been equally obnoxious to the privileges of the people. But the question merely was, what had been the general conduct of the judges in the Council. He thought they had formed a very salutary check on the other branches of the Legislature. They had certainly negatived bills, in some at which he himself had felt a deep interest; but that was not a reason for condemning their proceedings. If they were bound to pass all the bills sent up by the House, the salutary check of the Council would be at once done away with. It had been said that the authorities quoted should weigh deeply with the Committee; but he Mr. C. would ask, even if all the arguments adduced were correct, what had they to do with the present question? The principle they maintained would be a fit subject for consideration in a proper shape. If a petition to His Majesty on the subject were proposed, it might perhaps meet with no opposition. If a sufficient number of individuals qualified to sit in the Council could be found, without calling on the judges, the government might be disposed to alter the present system, the judges would have no wish to stay. But why was all this brought forward, on a question merely whether a bill which had been in operation five years should be continued? If it was found expedient at present that the judges should receive fees, that they should hold Circuit Courts, &c. was it fair to bring forward their power, as a subject in this question? He Mr. C. thought it was not. The whole question turned on the propriety or impropriety of giving the judges proper salaries, so as to put them into a proper and independent station in life, and to enable them to discharge all their duties without interest or bias. He Mr. C. again declared, that he viewed and argued this matter, without passion, prejudice, or any improper feeling; and he had no hesitation in saying, as a legislator, and not as a lawyer, that it was expedient to continue this bill for two years; because the system of Circuit Courts was now in operation, and must be supported. By the end of that period, most probably, there would be some general alterations as regards the law and its officers, which would remove much of the odium which now, probably attaches to the profession. Then, most likely there would be no judges fees whatever. Till then, the Bill must be continued; otherwise it would look, as if the House had refused to pass the bill, because the judges sit in the Council. This would not be a manly, fair, or honorable course for the House to pursue, it would be much more so to address His Majesty's Government on the subject.

Mr. Simonds replied, respecting his former statements as to

the "monstrous claims of the Council;" which reply brought up counter replies, demurrers, rejoinders, rebutters, interrogatories, &c almost AD INFINITUM; but which it is impossible, and perhaps unnecessary to transcribe in this report.

From the Journal.—The Chairman reported that having the Bill under consideration, an amendment was moved, continuing the said Act, so far as the same may relate to the sum granted to the Clerk of the Circuits. Whereupon the Committee divided as follows:—YEAS, Messrs. Simonds, Clinch, Dow, Gilbert, S. Humbert, Hayward, Miles, Taylor, Harrison, Barlow, J. Humbert, —11. NAYS, Mr. Speaker, Messrs. End, Scott, Partelow, Vall, Cunard, Chaudler, Weldon, Ward, Slason, Wyer, Brown, Allen.—13. And it was decided in the negative; and that the committee had then agreed to the Bill without any amendment.

Upon the question, that the report be accepted and the Bill engrossed, the house divided as follows:—YEAS, Messrs. End, Scott, Partelow, Vall, Cunard, Chaudler, Weldon, Ward, Slason, Wyer, Brown, Allen, Smith.—13 NAYS, Messrs. Clinch, Dow, Simonds, Gilbert, S. Humbert, Hayward, Miles, Taylor, Harrison, Barlow, J. Humbert.—11: It was therefore carried in the affirmative.

We have been obligingly favored with the Journals of the House of Assembly, up to the 29th March, from which we make the following extracts:

A Message from His Majesty's Council. Mr Bliss Master in Chancery, informed the house, that the Council had agreed to a Bill to make more effectual provisions for preventing the importation or spreading of Infectious Distempers within the towns or settlements in the Counties of Charlotte or Northumberland, with amendments; to which they desire the concurrence of the house. To His Honor the President, or Commander in Chief, the sum of £4000 for the encouragement of the Fisheries of the Province for the year 1831, a sum not exceeding £3000, for the encouragement of raising Grain on new land, agreeable to the Acts of the General Assembly. To His Honor the President or Commander in Chief, the sum of £100, for improving the road from Gagetown to Nerepis, in Queens County. To His Honor the President or Commander in Chief, the sum of £25, for the purpose of paying a Commissioner or Commissioners to explore a proper route from Daniel Kelleks, on the North side of the Richibucto River, over to the Salmon River Mills, and from thence to the river St. John, on the North side of the Grand Lake. Read a third time as engrossed, a Bill, to make more effectual provision for preventing the importation or spreading of infectious distempers, within the towns or settlements in the Counties of Charlotte and Northumberland. Resolved, That the Bill do pass. Read a third time, as engrossed, a Bill, to authorize Ministers of Congregations, dissenting from the Church of England, to solemnize Marriage in this Province. Resolved, That the Bill do pass. On motion of Mr. Weldon, the House went into Committee of the whole, on a Bill to enable the Justices of the Peace for the county of Kent, to raise money by assessment on the inhabitants of the said County, to discharge the debt due for erecting the Court House and Gaol. Read a third time, as engrossed, a Bill, to repeal all the Laws now in force for appointing Firewards and the better extinguishing of Fires, in the Towns of Fredericton, Saint Andrews, Newcastle and Chatham in this Province, and to make more suitable regulations for the same. Resolved, that the Bill do pass. Mr. Bliss, Master in Chancery, informed the House, that the Council had agreed to the following Bill:—A Bill, to regulate the Assizes of Bread in the Towns of Newcastle and Chatham, in the county of Northumberland. A Bill, to Incorporate the Minister and Elders of the Kirk of Scotland in the Town of Newcastle, and for the purposes therein mentioned. Mr. Cunard, the committee appointed to search the Journals of the Legislative Council, to ascertain what proceedings have been had on a Bill to regulate the Salmon Fishery in the county of Northumberland; reported, that he had attended to that duty, and found the following entry:—"Council Chamber, Wednesday, 9th March, 1831.—'Read a second time, the Bill to regulate the Salmon Fishery in the county of Northumberland, and to repeal all the Laws now in force relative to the same, so far as they relate to the county of Northumberland.' " On motion—Resolved, that the further consideration of this Bill be postponed to the next Session of the General Assembly; and that the Clerk of the Council do transmit a copy of the Bill to the Clerk of the Peace for the County of Northumberland, to be in the meantime kept in his office, and read at the General Sessions of the Peace, for the information of