that the rule should be enforced, it should be enforced, or it would lose its value. Last session, as chairman of one of the principal Private Bills Committees, he found it impossible to give due consideration to very important bills introduced at a late period of the session, under a suspension of the rules, and on examination of the statute book he found clauses in private bills which had not, and could not have had, under the circumstances. the consideration they deserved. It is therefore in the interest of sound private bill legislation for which the leader of the Government was equally as responsible as he was for public legislation, that he made the suggestion he had offered to the Premier. Under our system we must hold the Government responsible for the whole legislation of the country. In private bills it not unfrequently happened that clauses were introduced affecting *quoad* particular interests the public law of the country, and in respect to these Bills the Government must be held responsible.

Right Hon. Sir JOHN MACDONALD said his hon. friend carried this responsibility further than it was carried in England, where the Government was not held responsible for private legislation. The hon. gentleman spoke, also, of this extension of time as an abrogation of the rules of the House, but it would be admitted that the rules might sometimes be abrogated with great advantage. The hon. gentleman, for instance, had spoken twice on this subject, which was an abrogation of the rule, but still a very great advantage to the House.

Mr. RYMAL said it was perfectly regular for the Committee to recommend a suspension of the rule, and, considering the fact that this session had commenced some six weeks earlier than usual, the recommendation should be adopted,

Hon. Mr. BLAKE said the early meeting of the House furnished an ample justification for the suspension of the rules, and it would be very improper to refuse it, but he thought the remarks of the hon. member for Kingston ought to make the House all the more alert in maintaing the rules since the Government were not responsible for private legislation. Numbers of private bills were in effect largely public bills. Take for example two cases of the previous session. Numerous bills relating to banks were settled by a public bill, and in the same manner bills relating to building societies were brought under a general act. In both these cases the government were responsible for the legislation. He suggested that the House should determine upon a certain time within which petitions could be received, and adhere rigidly to that, only extending the time in special cases where the committee were satisfied that such extension should be granted. No general extension should in future take place.

Hon. Mr. MACKENZIE said the remarks made by the hon. member for South Bruce were particularly in point with reference to the legislation of last session. Two bills relating to building societies came in late in the session and it was utterly impossible from the lateness of the season and the anxiety of members to leave, for the government to give them the consideration they should receive. He felt that for these, at least, the Government had a direct responsibility that they could not shake off.

The motion was carried.

BILLS INTRODUCED.

The following bills were introduced and read a first time:—

Mr. IRVING—Act respecting the International Bridge Company.

Mr. JETTE—Bill to amend the several acts incorporating and relating to the Richelieu Company and to change its name.

Hon. Mr. CARTWRIGHT—Act to amend the act respecting banks and banking. He explained that the object of this bill was to amend the schedule in which one particular bank, which had become insolvent, appeared regularly every month.

Mr. JETTE—A Bill for the incorporation of the Royal Mutual Life Assurance Company of Canada.

THE SUPREME COURT.

Hon. Mr. FOURNIER moved for leave to introduce a bill which had been announced in the Speech from the Throne —an Act respecting the establishment of a Supreme Court. He said that a Bill on this subject had been announced on four occasions. The hon. leader of the Opposition had, in another debate, alluded to the numerous difficulties that had pre-

sented themselves in the preparation of such bill, and stated that he had given his best attention to the preparation of a measure of that kind. Had it not been that such an amount of valuable labour had been bestowed upon the preparation of a Supreme Court bill, he would have felt diffident in undertaking the task. Some features of the present Bill bore on their face a relationship to the features of the Bill of the hon. member for Kingston, and it should, therefore, secure his tender mercies. The very first difficulty met with in the preparation of the Bill was in writing the first word of it. It was a Bill creating a Court of appellate jurisdiction. Should that Court have a jurisdiction of appeal arising out of Local laws as well as out of Federal laws? That was one of the important questions which he had been compelled to consider in the preparation of the measure, and he felt bound to say that the opinions of men whom he highly esteemed differed on this point. Article 101 of the British North America Act said, "The Parliament of Canada may, notwithstanding anything in this Act, from time to time, provide for the constitution, maintenance and organization of a General Court of Appeal for Canada, and for the establishment of any additional Courts for the better administration of the laws of Canada." He understood the Federal Parliament was thus given the power to establish a Court of appellate jurisdiction. If these words "notwithstanding" &c., did not apply as an exception to the power given to the Local Government of establishing Courts of Justice, they would then mean nothing. This power was evidently given in view of the existing Provincial tribunals, because there was no other tribunal from whose decision an appeal might be taken. If it were not so, the clause would have been written otherwise. Tribunals of original instance would have been first established and then the power of establishing a Court of Appeals would naturally have followed It appeared, moreover, from a perusal of the concluding portion of that article that power was given to create additional Courts. The Court would have appellate civil and criminal jurisdiction, in cases of *habeas corpus*, of extradition and in constitutional cases. The Bill also provided for the creation of a Court of Exchequer. Some objection had been made to one of the Bills presented by the hon. member for Kingston for the reason that it gave to the Court of Appeal an original jurisdiction. He would avoid that difficulty by creating two Courts, one of appellate jurisdiction, the Supreme Court of Appeal; and another, a tribunal of the first instance, composed of the same members but being a totally different court. There was ample authority for adopting that course, and he found it in clause 101 of the Constitution. It was proposed to give the Judges of the Supreme Court the same rank as the Chief Justices of the Provinces, the Chief Justice of the court having rank and precedence over all other Judges. The proposed number of Judges was six, which some thought too large a number, and some persons thought five would be a satisfactory number. He thought, however, that six would be a satisfactory number for the present. When the Superior Court of the United States was first organized, it was composed of six Judges, though the number was subsequently increased, and at that time their population was about the same as ours. There would be two court terms, but as power had been given to it to adjourn from time to time, the court would be, practically, constantly in session. All the clauses from 18 to 49 were especially in relation to appellate proceedings. The 50th clause gave the Supreme Court appellate jurisdiction in controverted election cases, for if the law was to be interpreted by the courts of the different provinces, much difference would prevail.

Some alterations had been made in regard to cases of extradition, and some additions relating thereto, so far as the Province of Quebec was concerned. The following was the clause of the Bill referring to the subject:—It was very important to have these cases adjudicated upon by the highest tribunal of the country, because it involved correspondence with foreign countries on treaty matters.

"Any person convicted of treason, felony, or misdemeanour, before any Court of Oyer and Terminer or Gaol Delivery, or before the Court of Queen's Bench in the Province of Quebec on its Crown side, whose conviction has been affirmed by any Court of last resort, or in the Province of Quebec by the Court of Queen's Bench on its appeal side, or any person in custody within the Dominion of Canada, whose extradition is claimed in pursuance of any

treaty and whose application for discharge on a writ of Habeas Corpus *a l subjiciendum* has been refused, may appeal to the Supreme Court against the affirmation of such conviction or the refusal of such application, and the said Court shall make such rule or order therein, either in affirmance of the conviction, or for granting a new trial, or otherwise, as the justice of the case requires, and shall make all other necessary rules and orders for carrying such rule or order into effect, anything in the eightieth section of the Act. passed in the Session held in the thirty-second and thirty-third years of HER MAJESTY'S Reign, chapter twenty-nine, to the contrary, notwithstanding: Provided that no such Appeal shall be allowed where the Court affirming the conviction is unanimous, nor unless notice of Appeal in writing has been served on the Attorney General for the proper Province, within *fifteen* days after such affirmance or refusal."

He believed that this provision would be acceptable to the whole House. It was also desirable that some means should exist of setting right questions of law arising out of the execution of treaties with foreign countries. As would be seen from the 53rd clause of the Bill, the judgment of the Supreme Court, in all cases, would be final and conclusive. Hon. members would observe that on the question of appeal to the Privy Council, he had thought it better to make no provision in the Bill. Parties desiring to avail themselves of the right could address HER MAJESTY'S Privy Council by petition, and have their cases heard. He had omitted alluding to the subject purposely, because, while he did not desire to put any unnecessary obstacle in the way of exercising the right of petition, he wished to see the practice put an end to altogether. In view of the law recently passed in England, which was intended to have come into effect on the 1st November, 1874, but the operation of which had been postponed up to 1st November next, establishing a Supreme Court of Judicature, he thought the realization of his desire in respect to this matter was likely to be fulfilled. Under this law the jurisdiction of the Judicial Committee of the Privy Council would be transferred to the Supreme Court of Judicature sitting in London. He did not think the right of appeal would not then be prized so much as it was now, because the new court in London would be a court of law, and not as the Privy Council is, a court of prerogative. He would like very well to see a clause introduced declaring that this right of appeal to the Privy Council existed no longer. There were very strong reasons in favour of the right of appeal to the Privy Council, but the reasons against it were still stronger. The right of appeal had been rather extensively used, and he might add, considerably abused in the Province of Quebec, by wealthy men and wealthy corporations to force suiters to compromise in cases in which they had succeeded in all the tribunals of the country. However, as he had already said, he had made no mention of the matter in the bill now before the House, but left it to be disposed at some future time. Clause 54 gave the Judges of the proposed Supreme Court jurisdiction in *habeas corpus* concurrently with the Judges of the several Provinces. In that portion of the bill referring to constitutional matters, he had preserved two of the clauses of the measure introduced by the right hon. member for Kingston. The first clause in reference to this subject—clause 55—provided that the Governor-in-Council might direct a special case to be laid before the Court for its opinion. Clause 56 gave the right to any Province, or any other interested party, thought fit to appear before the Court and be heard in any such case, but the decision rendered by the Court would not bear the character of a judgment, it would merely have its moral weight in assisting the Government to arrive at a determination. Clause 57 extended this reference to the other cases at the pleasure of the Governor-in-Council. As to the portion of the Bill relating to special jurisdiction, it was framed in order to satisfy a very generally expressed public desire that there should be some court which would settle the extent of the powers of Local Legislatures when these powers were in dispute. No one doubted, however, that under the constitution it was not in the power of this Parliament to give jurisdiction to such a court to try constitutional questions. As a matter of fact, the only power which could be conferred upon the court properly was to try appeals from the decisions of courts of original jurisdiction. A Justice of the Peace had as good a right, according to the constitution, to try constitutional questions as would the Judges of the highest existing courts, but it was obviously proper nevertheless that the trial of such cases should be in the hands of the highest tribunal in the land. Acknowledging his

inability then to prepare a clause which could constitutionally confer the power of trying such cases upon the court directly he had resorted to the expedient of providing that, by the consent of the Provincial Governments concerned, decisions given by the Supreme Court would have their effect in the cases mentioned as fitted for reference to it. It had been suggested that the Imperial authorities should be asked to amend our constitution in this respect, but even with their assistance the change could not be made unless consented to by all the Provinces interested. He felt pretty sure that all the Provinces would not consent, for, as an example, be found that a petition had been filed from New Brunswick protesting against the measure introduced by his right hon. friend the member for Kingston, and if the Imperial authorities were appealed to they would answer, as they have already done under such circumstances, that the Canadian Federal compact could not be altered without the consent of all the parties thereto. The constitution could only be altered with the consent of the Local authorities, and he thought the simpler way would be to make the adoption of these clauses of the Act a matter of choice with the Local Governments. If they adopted it, they would reap its advantages, and if they did not, they would occupy exactly the same position as they did at present. But, then, the Government would have the advantage of referring constitutional cases, as provided in clauses 55, 56 and 57. He would read over the clauses of the Bill bearing upon this subject, as follow :—

"When the Legislature of any Province forming part of Canada shall have passed an Act agreeing and providing that the Supreme Court shall have jurisdiction in the following cases, viz.:—(1st) Of controversies between the Dominion of Canada and such Province; (2nd) Of controversies between such Province and any other Province or Provinces; (3rd) Of suits, actions or proceedings in which the parties thereto by their pleadings shall have raised the question of the validity of a Provincial or Dominion Act; (4th) In any case in which any Superior Court of original jurisdiction in common law or equity in any Province, or any judge of such Court sitting alone in such case, after having heard the parties, declares that in the opinion of such Court or judge the proper decision in such case cannot be given without considering some Dominion or Provincial Act or some part thereof to be unconstitutional; then this section and the three following sections of this Act shall be in force to all intents and purposes.

"The procedure in the cases firstly and secondly mentioned in the next preceding section shall be in the Exchequer Court, and shall, unless otherwise provided for by general rules made in pursuance of this Act, be regulated by the present practice of HER MAJESTY'S Court of Exchequer at Westminster, as far as the same may be consistent with the provisions of this Act, and an appeal shall lie in any such case to the Supreme Court.

"In the case thirdly mentioned in the next preceding section but one, the parties shall, notwithstanding, proceed to hearing and trial, according to the ordinary rules of procedure in the Province wherein the case is pending; and if the trial is before a jury, the verdict shall be taken; but no final judgment will be rendered in such case by the Court or Judge before whom it is pending, whose duty it shall then be, on the application of either of the parties, to order that the case be removed to the Supreme Court, to be heard and decided upon the question so raised, and it shall be so removed accordingly; and after the decision of the Supreme Court, the said case shall be sent back, with a copy of the judgment on the question raised, to the Court or Judge whence it came, to be then and there finally adjudicated upon as to justice may appertain.

"In the case fourthly mentioned in the next preceding section but two, where the validity of a Dominion or a Provincial Statute shall not have been raised by the parties, but in which the Court or Judge is of opinion that the proper decision cannot be given without considering a Dominion or a Provincial Act to be unconstitutional, it shall be the duty of the said Court or Judge to make and fyle of record a declaration in writing, stating the reasons for considering such law as unconstitutional; and after the fyling of such declaration, the case, at the diligence of either party to the suit, shall be removed to the Supreme Court, to be there heard upon the question raised, and after the decision of the Supreme Court, the said case shall be sent back, with a copy of the judgment, to the Court or Judge whence it came, to be then and there finally adjudicated upon as to justice may appertain.

"The next three preceding sections apply only to cases of a civil nature, and shall take effect in the cases therein provided for respectively, whatever may be the value of the matter in dispute, and there shall be no further appeal to the Supreme Court on any point decided by it in any such case, nor on any other point unless the value of the matter in dispute exceeds one thousand dollars."

It will be seen by these clauses that if, for instance, in a case before a Justice of the Peace, in an action for illegally selling liquor, in which the constitutionality of a local law would be raised (as some doubts seem to exist about the constitutionality of some of these laws,) that the evidence would have to be received and the case heard with the exception only that judgment could not be rendered on such questions, it would be the duty of

the Judge to refer the case to the Supreme Court for adjudication on the constitutional question. It will be the same in civil cases tried before a jury. Evidence would be received and verdict taken, but the constitutional question would be reserved for the Supreme Court. One objection was that in cases involving a larger amount than $1,000 there might be two appeals, one on the constitutional question and the other on the merits of the case afterwards, but such appeals would be very rare, because when one case would have been decided it would serve as a precedent and become the law of the Dominion. There would be no similar case brought again before the Supreme Court. With the right of appeal this Court would have jurisdiction in revenue cases. To a certain amount the jurisdiction would be exclusive but under it would be concurrent with the other Courts. Finally there were general provisions for the appointment of Registrars and other officers necessary for the Court. These were the principal features of the Bill with the details arranged in order to suit the object thereof in so far as he had been able to effect this. The measure was certainly of the greatest importance. It had been mentioned in the Speech from the Throne four times, and this was the third Bill that had been submitted to the House. Every one admitted that it was very important that the Federal Government should have an institution of its own in order to secure the due execution of its laws. There might perhaps come a time when it would not be very safe for the Federal Government to be at the mercy of the tribunals of the Provinces. He believed this to be an anomaly contrary to the spirit of our Constitution. It was not necessary for him to add any remarks concerning the importance of the measure, because every member was aware of it. He resumed his seat expressing the hope that the House would give its most careful consideration to the bill irrespective of party. Every one he believed would admit that it was not a party measure, and think it his duty to assist in carrying a good law which had for its sole object the harmonious working of our young construction.

Right Hon. Sir JOHN A. MACDONALD said by the courtesy of the Minister of Justice he had received an advance copy of the measure, and had been able to follow him in his very interesting speech on this occasion. He (Sir JOHN) was glad that the measure of the late Government had been of service to the hon. gentleman. He could quite understand and appreciate, as he was sure the whole House would appreciate, the desire of the hon. gentleman that this bill should be considered apart from party views, since its object was the establishment of a court of jurisdiction for dealing with litigation affecting all subjects and all parties. In the first place he did not intend to follow the hon. gentleman in all that he had said. His hon. friend had gone very carefully and elaborately into the different divisions of this measure, and the House would have a better opportunity of considering it on the second reading and for full discussion of all the clauses in Committee of the Whole. He quite agreed with the views of the hon. gentleman that this Court of Appeal, when established, would be a Court of Appeal for Canada —a court that could entertain appeals from the decisions of all the Provincial Courts, whether such decisions were based on Provincial laws, or laws of the Dominion. He knew there was one authority in this House who had a contrary opinion, and that authority was one that he greatly respected, and he was always sorry to differ from, but he (Sir JOHN) was fortified in his opinion by the views entertained by the Minister of Justice and the Government. He believed the logical and grammatical construction of the term "Court of Appeal" made it a Court of Appeal from all tribunals in this Dominion. The hon. Minister of Justice had pointed out one distinction between the Bill of the late Government and this. It was this, that the latter established here a Supreme Court which was a court of appellant jurisdiction as well as an Exchequer Court. He (Sir JOHN) was free to admit that this was an improvement for it avoided any disputes as to jurisdiction. The hon. gentleman would remember it was the intention of the Bill which he (Sir JOHN) had the honor to lay before Parliament that it should be a Supreme Court having an Appeal Court, and an Exchequer side; but he thought, on the whole, there should be two Courts as provided for in this Bill. He would

wait until the Bill was further advanced before making up his mind as to the number of Judges necessary. The House would be very glad to hear the views of the hon. gentleman on this point, and to know why he fixed upon six and preferred that number to five or seven. After giving the question careful consideration he (Sir JOHN) thought on the whole, seven was not too many. It will be remembered, however, that in his Bill, it was proposed that the Supreme Court Judges should be the Judge who should try all cases of controverted elections. He thought perhaps it would be found by and bye that this jurisdiction must be conferred upon the Judges, and if they were to believe the English newspaper reports the number of controverted elections was growing very rapidly in the Mother Country, and the avenues of justice would be obstructed very much. The Minister of Justice had a Bill before the House compelling the Judges to sit *de die in diem* whatever might be their ordinary duties in their own Provinces, and the litigation in their own Courts. However, that was a matter that time would settle, and he did not doubt that, hereafter, if representations should be made from the different Provincial Courts that the ordinary administration of justice was being interfered with very much by this jurisdiction being thrown upon them, the Supreme Court Judges would be made available. At first he imagined that the duties of these Judges would not be onerous, that is to say, their time would not be so fully occupied as the other Judges, and they might probably be found available to try controverted elections originally instead of simply in appeal. The clauses concerning the constitutional questions to be submitted to these Judges would, of course, require the gravest consideration. He saw from the remarks of his hon. friend that he was fully impressed with the importance of these clauses and the necessity of their being fully considered and of seeing that they did not in any way infringe upon our constitution or erect any Court which would in any degree over-ride the Parliament of Canada. So far as he understood his hon. friend, these clauses were principally for the purpose of informing the conscience of the Government, just as the Judicial Committee of the Privy Council might be called upon by HER MAJESTY to give their opinion upon certain questions. He supposed that the new Supreme Court Act in England contained similar clauses. As to the two or three new clauses on the subject which the hon. gentleman had discussed at some length, they were so important that he would claim the liberty of reserving his opinion. As regards the question of appeal to the Privy Council, he had always held the opinion that as long as we were a dependency it was of importance that the right of every Canadian, as of every other British subject, to appeal to the Court of the highest jurisdiction should be preserved, though he was free to admit that sometimes this appeal was made the means of oppression in the case of a rich man against a poor man, on account of the great expense attending it. It seemed to him that it would be severing one of the links between this country and the Mother Country if the right of appeal were cut off ruthlessly. That, however, could only be done by Imperial statute. There was a good deal in what the hon. gentleman had said that the new Supreme Court in England was not a prerogative Court like the Judicial Committee of the Privy Council. Still that Court was designed by the Imperial Parliament to have all the functions by substitution which the Judicial Committee of the Privy Council had. In fact by the Act the Prerogative Court had been made statutory and conferred upon the new Court. As to the other details of the Bill they seemed to be very carefully considered, and he had no doubt that the hon. gentleman would receive from this side of the House any suggestions as to those details in the same spirit in which he had addressed the House in introducing the Bill.

The Bill was then read a first time.

STATISTICS.

Hon. Mr. TUPPER said before the Orders of the Day were called he desired to draw the attention of the Premier to a point in which the Government in this House seemed to entertain a different opinion from the Government in the other end of the building. It would be in the recollection of the House that the member for South Waterloo offered a motion to refer the question of procuring statistics to a Committee which at the suggestion of the Premier was with-