

In introducing the motion,

Dr. BAXTER said that he desired to call the attention of the Government to the condition of this road. The road was sold by the Government of the late Province of Canada to private parties, and a certain sum of money was paid on it. At the present time there was a large debt hanging over the road, and although a large sum of money was collected annually in the way of tolls, nothing was done in the way of repairing the road, and the road was almost impassable. Travellers looked upon it as somewhat of an outrage to be compelled to pay tolls while travelling over it. The impression of the people was, that since the arbitration was terminated, this Government would be in a position to deal with the matter; but in answering a question he had asked, the hon. Treasurer said this Government had nothing to do with the matter. He brought the present motion with a view to elicit the opinion of the Government, for it was well that the people should know the true position of the matter. He hoped that something would be done with the road, either by transferring it to the municipalities through which it passed or in some other way.

Mr. McCALL (Norfolk) corroborated the remarks of the hon. member for Haldimand.

Mr. SEXTON said the Hamilton and Brantford road was in a similar position. It was very desirable that something should be done in the matter.

Hon. Mr. WOOD said with regard to the roads just named, it was an entire misapprehension on the part of the hon. gentleman to suppose that the award of the arbitrators had anything to do with this class of public works. The remedy was provided by the statutes of the country; or, as an ulterior measure, in the case of the Hamilton and Port Dover Road, the Dominion Government might be induced to sell the road, and then the municipality could buy it. He wished it to be most distinctly understood that all those roads that at one time belonged to the old Province of Canada, belong now to the Dominion, and this Legislature had no control over them. If the roads belonged to private companies, the remedy was provided in the statutes.

Mr. SEXTON said he did not wish the Government to grant assistance, but to have matters placed in such a position that the control over the roads should be changed.

Hon. Mr. CAMERON said that if the parties did not manage the roads properly they could be indicted.

Dr. BAXTER said the object of the motion was to take the road out of the hands of those who now controlled it.

Hon. J. S. MACDONALD said that motions of this kind were a cheap way of obtaining legal knowledge, and saved gentlemen from consulting counsel.

The motion was withdrawn.

COURT OF CHANCERY.

Mr. BLAKE moved

"That certain of the duties assigned to the Secretary of the Judges of the Court of Chancery sitting in chambers are of a judicial character, and cannot be legally performed by him.

"(2) That the present mode of administering justice in Chancery Chambers is unsatisfactory and ought to be changed.

He said that last session he took occasion to say he thought that the practice in the Chancery Chambers should be changed. It had been stated, however, by the leader of the Government that, though the present state of things was not warranted by law, it was not his intention to take steps to provide a remedy. This being the case, it devolved upon him (Mr. Blake) to bring the matter before the House. He (Mr. Blake) did not think it came within the compass of the judges to delegate, even by the consent of the parties interested in a suit, the official who was to sit in their room. When the House considered the very important character of the matters that came before the Chancery Chambers, and when the House considered that amongst these matters were the administration of infants' estates, the appointment of guardians, the administration of the estates of deceased persons, the management of property and the payment of moneys into court, he thought this business was what might be called judicial. Now the Legislature had provided for the sitting of judges in chambers to transact judicial business; under the present state of things the Judges were not in attendance unless some special cases called for them. By the General Order under which the Secretary sits, it was provided that in the absence of the Judges the Secretary was to sit in chambers; but the presence of the Judges was the exception and their absence the rule.

whilst the sitting of the Secretary was also a rule. Matters in which two parties were represented, or *ex parte* cases, were decided by the Secretary, and in many cases his decisions were arrived at without any communication with the Judges. These were not, even by fiction of law, to be called decisions of the Judges. These orders he (Mr. Blake) apprehended were of no force, and could have no legal validity, when the Judges had neither voice nor part in the matter. In questions of law or fact, or in mixed questions of law and fact, that a party should appear before any individual, no matter how eminent, and that the latter should be called on to report the arguments to a third person, who had not heard the arguments, and that the decision should be given by that person who had not heard the arguments by counsel, except in a diluted condition, was to his (Mr. Blake's) mind most unsatisfactory. He thought, therefore, that the position taken in these two resolutions, which were framed on what had fallen from a member of the Government, were correct in point of law and in point of fact. It could not be doubted that the Judges of the Court of Chancery had not power to turn anybody into Judges; nor could it be doubted that the judgments pronounced by Mr. Taylor had no force. He (Mr. Blake) desired that any person who was to decide on these matters should be clothed with requisite authority. The present course pursued in the Court of Chancery was provocative of intermediate appeals; for a man was obliged first to appeal to him who was supposed to have heard it in the first instance, and then in full court. This was a very complicated system, and required to be changed. He was sorry to be obliged to bring forward these resolutions; but he would not have done so if he had not heard the Government say they would not move in the matter. He brought forward the resolutions for the benefit of the administration of the Chancery court, and in justice to the views on the subject entertained by the profession.

Hon. J. S. MACDONALD was surprised that the hon. gentleman should adopt the course he had taken in order to remedy what he alleged to be a grievance. He (Hon. J. S. Macdonald) should like to know on what evidence the hon. member for South Bruce had based his resolutions. The present arrangements in the court had been going on for four years, and it was strange that the hon. member had not taken any action until now.

Mr. BLAKE—I spoke about it two sessions ago.

Hon. J. S. MACDONALD said he did not recollect the circumstances. If the views taken by the hon. member were correct, that the decisions of

the Secretary had no force, that it became a very serious matter. But he (Hon. J. S. Macdonald) looked upon the action of the Secretary as having been acquiesced in by the Judges. He had heard no complaint; and no evidence of complaint, except the statement made by the member for South Bruce.

Mr. BLAKE—There is other evidence.

Hon. J. S. MACDONALD said it was a serious matter to ask the Legislature to condemn the Judges, who must have considered the action of the Secretary, having deliberately delegated a portion of their duties to him. He (Hon. J. S. Macdonald) confessed he had no knowledge of Chancery himself, and he thought the House, who were in a similar position to himself in this respect should not be asked to pronounce in the matter. The House would be wanting in respect to itself and the learned judges, if for a moment it entertained these resolutions; and therefore he would ask the House to refuse their assent.

Mr. BLAKE said he might have expected that the Attorney-General would change the opinions he held a few days ago.

Hon. J. S. MACDONALD said he had not changed his views.

Mr. BLAKE said that the Attorney-General had stated a few days ago that the system now pursued in the Court was illegal; but because the Bench did not take steps to change it, he would not do so. He (Mr. Blake) in this matter coincided with the opinion of the leader of the House. He was aware that that hon. gentleman's followers were accustomed to take much greater things on trust than what he (Mr. Blake) asked them to take to-day. He (Mr. Blake) framed his motion on what the Attorney-General had stated. That gentleman was the first law officer of the Crown, and charged with the administration of justice; and had he not stated what he did, he (Mr. Blake) might

have asked for a committee, instead of taking the present steps. But when the Attorney-General stated that the practice was an illegal one, he (Mr. Blake) was justified in moving these resolutions.

Hon. J. S. MACDONALD said he did not make that statement.

Mr. BLAKE said that he would now ask the Attorney-General if the practice were not illegal. The Attorney-General had said the practice was wrong, but because he was not asked to do so he would not change it. He (Mr. Blake) did not know who would come on their knees to implore him to arrest an illegal practice. He did not know whether he wanted the Bar to do so. He thought it was the duty of a government which knew an illegal practice was going on to stop it.

Hon. J. S. MACDONALD.—Why was not the matter tested long ago?

Mr. BLAKE asked what had he to do with testing it? The whole country was interested in the matter; interested in the fact that millions of property had been decided on, and the decisions not worth the paper on which they were written. It did not require special aptitude as a lawyer to see that the present practice was illegal; any man of common sense could see it. He (Mr. Blake) for many years had maintained cordial and friendly, but independent, relations with the Bench, and it was only with great reluctance he had brought forward his motion. He had now done all he cared to do in the matter, and the responsibility was off his shoulders, and he would now withdraw his motion.

Hon. Mr. WOOD said that this matter should have been brought before the judges.

Mr. BLAKE said he had reason to believe that the representations of the bar to the bench did contain some allusion to this matter.

Hon. Mr. WOOD admitted that complicated questions of fact and law arose in the Chambers, which the judges were relieved from considering. The hon. gentleman had not indicated his opinion—whether he wished to clothe the Secretary with judicial powers, or not. He was not prepared to go the length of the hon. member's resolutions; nor to say that the Secretary performed duties which he had no right to do. There were, no doubt, some cases of great complication in which the inconvenience of the present system was made apparent, but the generality of cases heard before the Secretary were of a *pro forma* character. His judgments were generally sound and gave satisfaction.

Mr. BLAKE asked if the Hon. Treasurer thought that it was satisfactory that evidence and arguments in complicated cases should be heard by the Secretary, and decided on by a Judge who did not hear the evidence and arguments.

Hon. Mr. WOOD said that no man in his senses could say that such a system was satisfactory.

Mr. LOUNT considered that a change was undesirable, and spoke in favour of Mr. Taylor's competency in his situation.

Hon. Mr. CAMERON thought it an unfortunate statement of the hon. member for South Bruce, that many thousands of pounds were disposed of on judgments which were illegal. He did not think it was so. No mischief could result from the present course, but a great deal of convenience was obtained by it.

After a few words from Hon. Mr. WOOD the motion was withdrawn.

SQUATTERS IN MUSKOKA DISTRICT.

Mr. McKELLAR moved an address for a statement of the number of persons still in arrears for lands purchased in the Muskoka district. Also, the number of persons now resident in the district, who squatted upon the lands before the passage of the Free Grant Act. He thought there could be no objection to the motion.

Mr. RICHARDS said the information could not be had.

Mr. McKELLAR thought that Mr. Lount, the Government agent in the district, could tell the number of persons who had settled in the district previous to the passage of the Free Grant Act.

Mr. COCKBURN thought that the surveyor's returns would give the names.

Mr. LOUNT believed that it would be impossible for a full return to be made of the squatters at the time of the passing of the Free Grant Act.

After some further discussion, Mr. McKELLAR amended the motion by striking out the former part of it, and it was carried as amended.