

...and incorporated villages vacant lots should be taken," were adopted, and clause 18, as amended was then agreed to.

Mr. SINCLAIR said there was no doubt a great necessity existed for the amendment.

After some discussion Mr. CAMERON moved to amend the clause, so as to leave it in the hands of the townships out of which the section is formed, with the County Council, to equalize the assessment.

The amendment was then adopted, and Mr. CAMERON moved to strike out the provision that the assessments may be equalized shall be the one adopted by the County Council.

The clause was then adopted.

The 19th clause was carried, and on clause 20 providing that the trustees may provide salaries for teachers.

Mr. CARNEGIE thought this gave too much power to the trustees.

Mr. OLIVER thought the clause should be struck out.

The clause was carried.

Clause 21 was adopted, and also clause 22, with verbal amendments.

Clause 23 to 26 were adopted, and on clause 27, referring to differences between trustees and teachers to be settled by the County Judge, and the appeal therefrom, Mr. BLAKE thought the decision of a County Court Judge should not be subject to appeal to a person who was not a legal professional.

Mr. CAMERON said the appeal was, not to the Chief Superintendent, but to the Court of Queen's Bench. An appeal was required was that the decision should be communicated to the Chief Superintendent, to give him an opportunity of appeal to the Court.

Mr. BLAKE—It is not intended that there should be any appeal to the Chief Superintendent?

Mr. CAMERON—No.

The clause was then adopted.

Clause 28 and 29 were agreed to on the verbal amendments.

Mr. BLAKE called attention to the injustice which might be done to a teacher by the requirement that all the trustees should be notified. He suggested that this part of the section should be struck out.

After some discussion, Mr. BLAKE moved that all the words "and notified" should be struck out, which was accepted by Mr. Cameron, and the section, as amended, was then carried.

The remaining sub sections of this clause were adopted.

The 31st clause was adopted, and, on motion of Mr. Cameron, the Committee rose, reported progress, and asked leave to sit again.

The House then adjourned at 10:35.

NOTICES OF MOTIONS.

Mr. McCall (Norfolk)—Address for returns relative to the Long Point Company.

Hon. Mr. Carling—Bill to amend the Ontario Drainage Act.

Also—Bill to amend the Agricultural and Arts Act.

Mr. Scott (Grey)—Question—If the Government intend to take any steps, in conjunction with the Dominion Government, with the view to acquire control over the Indian lands in this province, so as to bring the same under the rules and regulations of the Crown Lands Department, thereby securing to the settler on such Indian lands equal benefits with those enjoyed by settlers on Crown lands?

Also—If the Government have taken, or intend to take, any steps for defining the boundary line between the Provinces of Manitoba and Ontario?

Legislature of Ontario.

FIRST PARLIAMENT—FOURTH SESSION.

FRIDAY, Jan. 27.

The SPEAKER took the chair at 3:10 p.m.

PETITIONS.

Mr. McCall (Norfolk)—From William Thomas Kelly and others of Toronto, praying that the proposed Bill to incorporate the Ontario Street Railway Company (limited), may not pass.

REPORTS OF COMMITTEES.

The reports of the standing committees on private bills and railways, and of the special committees on the Municipal Act and the Law Society Bill, were presented.

CONDITION OF THE LONDON LUNATIC ASYLUM.

Mr. BLAKE said he would desire to draw the attention of the House and the Government to a matter that had engaged the attention of the public press. It had been stated that a large number of the patients of the London Lunatic Asylum had been prostrated with low typhoid fever; that one of the nurses had died, and that one had been dangerously ill for some days. This state of the Asylum had been attributed to defective drainage and bad water. He hoped the Government would see that something was done to remedy the condition of these unfortunate.

Hon. Mr. CARLING said that a letter had been written by the Superintendent of the London Asylum, stating that a drain had been blocked up, and that the water had flowed into one of the wells. An officer had been sent to the asylum to make enquiries and furnish a report. The officer had returned, and would make a report to him (Hon. Mr. Carling). It was true that an attendant had been taken ill and died, but he could not say of what disease; and five or six had been ill, but were now getting well. The drain had been repaired and the difficulty removed.

Mr. BLAKE asked if the report would embrace some information as to the sanitary condition of the asylum.

Hon. Mr. CARLING replied in the affirmative.

ELECTION PETITIONS.

The House went into committee on Bill to amend the law relating to Election Petitions, and for providing more effectually for the prevention of corrupt practices at Elections for the Legislative Assembly of Ontario.—Hon. Atty.-Gen. Macdonald.

Mr. Eyre in the chair.

The various clauses having been passed, Atty.-Gen. MACDONALD moved the addition of a clause to the effect—That \$1,000 shall be paid to the Clerk of the Court of Queen's Bench, in connection with this Act.

Mr. BLAKE said he did not intend to allow this clause to be passed without opposition at a future stage. The practical effect of the resolution was, taking past experience as a guide, that the official would receive \$1,000 for his duties in connection with this Act. But supposing there were four cases of dispute arose at an election, the clerk would receive \$1,000 for each case. The clerk's duties were entirely ministerial, and he was of opinion that the proper way was to provide for his remuneration on a scale of sittings fees. \$25 would be, in his opinion, a very good remuneration for his duty in each case, or at the outside \$50. If the remuneration was not according to a scale of fees, it should bear some proportion to the amount of work to be done.

Atty.-Gen. MACDONALD explained the necessity for this high remuneration. He said the committee would recollect that it was found necessary to pass an Act appointing a clerk who discharged duties semi-judicial, and very recently he had applied for an increase of salary for the duties he was discharging to the satisfaction of the Bench. It had been found that the duties had been so ably performed, that it was difficult to refuse the application for extra compensation. It would be a question for the Dominion Government whether they should not pay Mr. Dalton for his services, which were rendered necessary by the failure of the Dominion Government to appoint an additional judge. If the Dominion Government appointed an additional judge, it would then be a question whether Ontario would pay Mr. Dalton for his services. It would be open for consideration whether the Dominion Government were not called upon to pay for the services of an officer whose appointment they had forced upon the province. In the meantime it would be well to see that Mr. Dalton was paid for the duties he so efficiently discharged, rather than to lose his services.

Mr. BLAKE endorsed what had been said by the Atty.-Gen. as to the very satisfactory way in which Mr. Dalton had discharged his duties, and also as to the onerous nature of those duties. That officer no doubt had been appointed to an office with certain defined duties attached, and other and important duties had been subsequently added; and there was no question as to his claim for compensation for the discharge of these extra duties. But various questions arose on this matter of payment. This entirely disproportionate remuneration for the third office with which it was now proposed to invest Mr. Dalton was proposed in consequence of his holding another office, for his services in connection with which he received no pay. If it was right that they should pay Mr. Dalton for the work he was doing as clerk or judge in Chambers, let the House pay him; and not beat about the bush in the miserable way proposed. Let them not pay him this high remuneration for performing duties which were worth only about \$40, because by doing so they would be paying him for doing something else. He hoped the House would not stultify itself in this matter, and by paying this large salary pay him for work for which the House ought not to pay at all. They knew the difficulty of retracing their steps in such matters; if they once assented to this clause they would find it difficult to reduce the salary again. He had no doubt that the duties performed by Mr. Dalton, being judicial ones, ought not to be paid for by the Province at all. There was this further consideration in the matter: the statute did not give them the power of appointing judges and compelling the Dominion authorities to pay them afterwards. The Attorney-General might well have created the office of Judge in Chambers and then have allowed the Dominion Government to have appointed its officer, and then it would clearly have devolved upon the Dominion to pay his salary. But when the hon. gentleman chose to arrogate to himself to appoint an official, he thought he would find it difficult to make the Dominion pay the salary. The difficulty was consequently a little deeper than the hon. gentleman had stated. The difficulties of the case were, he believed, within the scope of that chamber to deal with. It was only necessary that they should be careful not to appoint officers and then want the Dominion to pay their salaries. He hoped the House would not take the step desired.

Atty.-Gen. MACDONALD said that the appointment of Mr. Dalton as clerk in chambers was at the suggestion of the Judges of the Superior Courts, and, at the time, he had no doubt that what was proposed by them would be quite proper and within the scope of their power to do. In the next place, he had no intimation that compensation was to be expected for the services from the Province until about a month after the appointment. He demurred to the demand at the time, and said that the appointment was made for the convenience of the judges. He was in this dilemma—he had prepared and carried a Bill, prepared at the suggestion of the judges, and the remuneration consequent upon which he expected was to be paid by the Dominion Government. Mr. Dalton threatened to resign last year, and so particular was he (Attorney-General) that the Province of Ontario should not be compromised, that he had not paid any salary for the year 1870. He, however, proposed to recompense Mr. Dalton by this Bill. He asked the House not to embarrass the Government in this matter. Negotiations were going on between the two Governments, and in the meantime it was highly advisable that the present clause should carry.

Mr. BOYD said it was not right to smuggle into this Bill a provision with regard to the payment of Mr. Dalton. The question of Mr. Dalton's salary had nothing to do

with the object sought for by the Bill. If he were entitled to a fair remuneration, let him be paid, but not in this underhand manner for duties he might not be called upon to perform.

Hon. J. S. MACDONALD said he was in a dilemma on the subject. If Mr. Dalton were not paid for the past year, and the duties he would have to perform this year, what was to be done? Would the Dominion Government pay him for these services? He (Attorney-General) would suggest to the committee to let the matter stand over for this year; and at the meeting of the House next year, it would be considered. The probability was that the Dominion Government would ultimately pay the salary.

Mr. McKELLAR objected to the scheme of payment as proposed by the Bill, and suggested that it would be better to come down with the payment in the estimates.

Hon. J. S. MACDONALD said he would be content to accept the suggestion of the hon. member for Bothwell.

Mr. BLAKE said he would take a vote on the matter on concurrence.

Mr. LOUNT suggested that the clause should now stand over, and that the Government should consult with Mr. Dalton, and come to an understanding that a year hence he should be paid by this Government if the Dominion Government did not recompense him. He (Mr. Lount) thought the sum of \$1,000 was too much.

Mr. FERRIER said the sum was not high, especially as this Bill was intended to prevent all election disputes. (A laugh.)

Hon. J. S. MACDONALD defended the clause, stating that he believed the Ottawa Government should pay the salary.

Mr. BLAKE said if this Government would repeal the Bill and leave the Ottawa Government to fill the office, they would fill the office and pay the salary.

Hon. Mr. McMURRICH said it would be better for this Government to lose the \$1,000 than pay it in this roundabout way.

The clause was carried on a division.

The Committee rose and reported the Bill. The report was ordered to be received on Tuesday next.

STIPENDIARY MAGISTRATES IN PARRY SOUND AND THUNDER BAY.

Hon. J. S. MACDONALD moved the House into committee, Mr. Hays in the chair, on the resolutions respecting Stipendiary Magistrates in the Territorial Districts of Parry Sound and Thunder Bay.

The ATTORNEY-GENERAL moved that each of the Stipendiary Magistrates receive the annual sum of \$1,200. Carried.

The Committee rose and reported.

Hon. J. S. MACDONALD moved that the report, on a future day, be referred to committee of the whole. Carried.

TERRITORIAL DISTRICT OF THUNDER BAY.

Hon. J. S. MACDONALD moved the House into committee—Mr. Bastin in the chair—on the Bill to provide for the organization of the territorial district of Thunder Bay.

The committee rose and reported the Bill, and asked leave to sit again.

COURT OF CHANCERY.

The House went into committee (Mr. Graham, of York, in the chair), on motion of Attorney-General Macdonald, on following resolutions:—

1. That there shall be paid out of the Consolidated Revenue Fund the sum of \$ annually, to the Master in Ordinary of the Court of Chancery.
2. That there shall be paid to the Referee in Chambers of the said Court, annually, the sum of \$

Hon. J. S. MACDONALD moved that the sum of \$3,000 be paid annually out of the Consolidated Revenue to the Master in Ordinary.

Mr. BLAKE said he had great satisfaction in supporting the adoption of this resolution. He had long felt the serious inconvenience in working the court under the old arrangement. He had no doubt, but that in the matter of fees alone the appointment of the Master would be found to work most beneficially; for, not looking at any higher interests, the mere pecuniary results of obtaining the services of a man able to discharge his legal business, and fund his fees, would be found highly beneficial. The sum proposed as a salary was a very moderate one for the services of the gentleman who had been appointed Master in Ordinary. He (Mr. Blake) had great pleasure in agreeing very cordially with the Attorney-General as to the capacity of the gentleman he was so fortunate as to secure for the office. The expectations he had raised while at the bar had been fully realized, by the experience of the profession, since he attained his present position.

Hon. J. S. MACDONALD said he knew little of Mr. Boyle personally, and never had a dozen of words with him. But he had reason to know who would best fill the office. It had been suggested to him (the Attorney-General) that Mr. Boyle was the best man, and, without any consultation with the firm of which Mr. Boyle was a member, he (the Attorney-General) had solicited his acceptance of the office; and he was proud to say that the filling of the office had given great satisfaction to the bar. He would say a few words as to Mr. Taylor, who was to be appointed referee. Mr. Taylor had formerly been secretary of the judges, and his decisions had been called in question as to legality by the hon. member for South Bruce. He (the Attorney-General) wished, however, to have the opinion of the judges on the matter, no matter what his own opinion might be. In bringing in his Bill for the internal arrangements of the Court of Chancery, he had submitted the suggestions made by the judges. They did not admit that they were wrong in appointing Mr. Taylor as secretary. The new office, that of referee, was only giving effect to the power the judges insisted they had to designate certain duties to the Secretary. The new office would have a salary attached to it of \$2,000 a year, and he would therefore move that the second blank in the resolution be filled up with this sum.

Mr. BLAKE said that if the Attorney-General had not referred to the judges in his

remarks, he would not do so in the observations he was about to make. He might now say that he had the best authority for stating that the views as to the legality of Mr. Taylor's appointment were not shared in by all the members of the Court; although he would admit that they were shared in by an eminent member of that Court. The Attorney-General having got into a snare, from which he was not set free, now deliberately proposed to get into another snare. A while ago, the Attorney-General was heard to say that the Ottawa Government should be charged with the salary of the Clerk in Chambers; he created the office, and now he said that the Government of Canada ought to pay the salary. He now proposed to put another gentleman in precisely the same position.

Hon. J. S. MACDONALD—No.

Mr. BLAKE said that this Bill proposed that it should be allowable for the Judges to publish a general order to allow the referee to transact all their judicial business except in some particular cases. It was proposed that the Lieut.-Governor in Council should create the office, and that the House should pay him. If it were right that the House should pay for these judicial duties, why was it not right that it should pay for those of Mr. Dalton? The only sound principle was—and he defied the Attorney-General to contradict it—that with reference to the salaries of judges and persons filling judicial positions, they should be paid out of the general funds of the Province. This was a principle recognized by our constitution. What the Attorney-General proposed was—that whereas judicial services in this Province were paid out of the general revenue, of which we paid our share, part of these salaries was to be paid by the suitors. But the suitors were now paying heavily enough in all conscience. The Attorney-General sought to create an office, and to assign or give power to assign the duties of it; and to the extent to which these were judicial duties—the duty of sitting in chambers—he (Mr. Blake) maintained that the Ottawa Government must appoint and must pay. The Attorney-General ought not to press the proposal that the Province should pay the salaries of these judicial officers.

Atty.-Gen. MACDONALD contended that the arguments applicable in the case of Mr. Dalton did not apply to the case now under discussion. Mr. Taylor was appointed in 1866, at a salary of \$2,000, and it was now only proposed to place him on the same footing. The Judges of the Court of Equity insisted on the right of this appointment, and the Bill was necessary in order to remove doubts.

Mr. BLAKE said the duties of the officer in 1866 were different in extent to those with which it was now proposed to invest him. In 1866, the consent of parties was required, but here parties had no alternative.

Atty.-Gen. MACDONALD—But there is an appeal.

Mr. BLAKE said he was considering the position of Mr. Taylor under the Bill. There was no doubt that that official became a Judge in Chambers under the Bill, and was just as much a judge as were the judges of the courts, whose decisions could only be appealed against in the Court of Error and Appeal.

Mr. LOUNT said there was an actual necessity for doing something to quiet the uneasiness throughout the country. He would be rather disposed to stretch a point, in view of the uncertainty of the country in the matter. The Bill was considered necessary by the judges, whose opinions on this matter were worthy of the greatest weight.

Hon. Mr. CAMERON said if they had a right to do away with the Court of Chancery, as might be inferred from resolutions introduced by the hon. member for South Bruce, they had a right to alter and amend it. The Confederation Act gave the power to the Dominion Government of appointing judges of the courts, but this House had the power of appointing subordinate officers, such as the referee referred to.

Mr. BLAKE—But he has judicial functions.

Hon. Mr. CAMERON contended that there was nothing said why the House should not give judicial functions to an officer appointed by it. He did not consider Mr. Taylor would take the status of a judge, on which the whole question turned. He would not mix up Mr. Dalton with this question; but looking at it on its merits, he believed it was not only right and proper, but one quite within the scope of the House.

Mr. LAUDER supported the Bill, contending that the arguments of the hon. member for South Bruce would result in centralizing all power in Ottawa.

Attorney-General MACDONALD said that the hon. member must admit that the Master in Ordinary discharged more judicial duties than fell to the lot of Mr. Taylor.

Mr. BLAKE—No.

Attorney-General MACDONALD asked supporting Mr. Taylor resigned, what were they to do? The Secretary had the power of referring cases which he did not wish to hear to the Judges. The House ought to be ready to stretch a point under the circumstances of the case.

Mr. BLAKE said of course the honourable Secretary would not discuss Mr. Dalton's case, because he could not. The reasoning in one case was exactly opposed to the proposition in the other. They had heard a new reading of the constitution from the hon. Secretary—the Dominion appointed all judges of the superior courts, but that the House could take away their duties and by giving them to other officials, with a change of name, bring them within the appointment of that House. When a judge sat in Chambers, he sat as a judge, and yet by a high presto sort of arrangement he could put another official in his place, who, though discharging the same duties, was not to be considered a judge. The argument that they were to stretch a little this way and then in that way simply that the House should take a wrong step because they did not exactly see the right course. They could not evade the constitution by the pitiful evasion proposed.

The clause as filled up was then carried, and the committee then rose and reported.