Legislature of Ontario.

FIRST PARLIAMENT—FOURTH SESSION.

THURSDAY, Feb. 9, 1871.

The Speaker took the chair at 3:20 p.m.

REPORTS OF COMMITTEE.

The report of special committee, with reference to public fairs, &c., was presented.

RETURN.

Hon. Mr. CAMERON presented a return, giving tenders and expenditure for alterations, &c., in connection with Upper Canada College.

ASSESSMENT LAW.

Mr. TROW moved that the House should, at its next sitting, resolve itself into a committee of the whole to consider the progress of the Bill respecting the Assessment Law.

Attorney-General MACDONALD raised the point of order that notice was required.

Mr. SCOTT (Ottawa), who seconded the motion, advanced authorities to the effect that notice was not required, quoting from the works of Mr. May and Mr. Todd, and the procedure of the English House of Commons. He also quoted the decision of the Speaker of the Imperial House—Mr. Denison—that it was beyond the power of a committee to take a Bill out of the hands of the House.

Hon. J. S. MACDONALD said this motion was contrary to the practice of the House in all times past. He was amazed at this tempest in a teapot. He knew nothing of the action of the committee until after that action had been taken. This motion was against the practice of the House, and practice was stronger than rules; and he appealed to the hon. member for South Simcoe (Mr. Ferguson) who was an old member of Parliament, whether this was not the case. He had received to-day a telegram from Ottawa on this matter.

Mr. BLAKE—Hear, hear.

Hon. J. S. MACDONALD read the telegram, which was understood to come from Mr. Lindsay, clerk of the House of Commons. The telegram stated that when the committee of the whole rose without reporting, the action was generally regarded as killing the Bill; and instanced the case of the Interest Bills as proof of the fact. He had—To the Supreme Railway, and the

denied any gentleman to show that any case of this kind had ever been before the House.

Mr. BLAKE said if the Atty.-General had been able to show any case, or number of cases, in which an attempt had been made—after a committee had risen without reporting—in which an attempt had been made to place the Bill again on the orders, and the motion had been refused, then the Attorney-General would have some ground to go upon. But the Attorney General said that because there was no instance of this occurring, therefore the attempt could not be made. The Attorney-General had admitted the question had never been raised; therefore there was no case in which the House had refused a motion of this kind, and, consequently, this motion was not out of order. If we had no practice of our own, there was English practice on motions of this kind. The practice of the English House of Commons indicated that in cases like the present the House was entitled to place the matter on the orders of the day again. We had our own rules, and they were, that in cases which our rules did not cover—in cases unprovided for by our rules—the English practice was to prevail. He would ask if the Speaker were in the chair to supersede the standing rules or to obey them? The hon. member for Ottawa asked the Speaker to obey our rules—that in unprovided cases, the English practice was to prevail; the Attorney-General said no—because the House had never before been asked to do such a thing. It was perfectly inconsistent with all sound Parliamentary principle to say that because the Committee rose without reporting a Bill, the House deprived itself of the power of dealing with the measure. It was perfectly clear that in a case like the present the House was bound to follow the English practice, and, therefore, it was perfectly clear that this motion was in order.

Mr. CURRIE hoped the point of order would be withdrawn, as he could not but think that the action last night was a piece of sharp practice.

Hon. Mr. WOOD said he could not understand the meaning of the hon. gentleman in his allusion to sharp practice. (Oh.) A somewhat similar charge against him was made in a morning journal, and he begged entirely to deny the accusation. He had had no consultation with hon. members as to the action he had taken; and it was only after hearing expressions from several gentlemen as to the inadvisability of tinkering at the Assessment Law, in view of its early consolidation, that he rose to move that the committee should rise. He had no intention to take the committee by surprise, and believed the House would consider him innocent in this matter. With regard to the point before the House, he was free to admit that the House had theoretically the power of resuming the Bill, but practically it was held that a committee, rising without reporting, was synonymous with killing the Bill for the session. He appealed to the hon member for Bothwell (Mr. McKellar) who had a lengthy parliamentary experience, whether this had not been the practice.

Mr. McKELLAR said he would ask the hon. Treasurer if he could point out a single case where the question had been tested?

Hon. Mr. WOOD was not aware of any case.

Mr. McKELLAR could not consider that the inherent right of the House had lapsed because it had not been previously exercised. With regard to the action of the hon. Treasurer, he must say that he believed the motion was sprung upon the House.

Hon. Mr. WOOD said he had denied this charge.

Mr. McKELLAR said that at the time in question he was endeavouring to speak, when the hon. Treasurer cried out, in his thundering tones, "Rise, rise," and prevented his speaking; and he (Mr. McKellar) maintained that at least it was a very indelicate thing for the hon. Treasurer to do, because the House was aware that the hon. gentleman was pecuniarily interested in the matter. (Hear.) He thought that if there was nothing in the Bill except the exemption of officials clause it was well worthy the consideration of the House. He hoped the House would not allow itself to be stultified in this matter.

Mr. LYON thought the question of the exemption of Government officials should be decided on its merits. The argument that the practice of the House was to be established by its non-acts rather than by its acts, was absurd. He hoped the House would go back into committee and further consider the Bill.

Mr. TROW said he did not wish to charge the hon Treasurer with sharp practice, but the proceedings last night looked very much like it. With regard to the unadvisability of tinkering at the assessment law, he had only to say that he had in former sessions moved various amendments to the law, the effect of which there was plenty of evidence to show had been beneficial.

Mr. FERGUSON said there was no precedent for the course proposed, and he hoped the Speaker would support the question of order. He did not care what Mr. Todd or any one else had said in the matter, he would be guided by his own opinion.

Mr. WALLIS said he had never seen such disorderly conduct as took place during the sitting last night. There were a number of members in the hall at the time the committee divided and if they had been in the House the result would probably have been different. (Hear, hear.) He hoped the Bill would be allowed to be proceeded with.

The SPEAKER said he would give a decision next sitting.

Mr. SCOTT (Ottawa) said he wished to say a word—

Hon. J. S. MACDONALD—You cannot force the speaker.

Mr. SCOTT (Ottawa)—It will defeat the Bill if the decision is postponed, for to-morrow is a Government day.

Mr. LOUNT—I don't think that the postponement of the decision would defeat the bill.

Mr. SCOTT (Ottawa)—Of course it would.

Hon. J. S. MACDONALD—Chiar, chair.

The matter then dropped.

GAME LAWS.

The House then went into committee—Mr Ayre in the chair—on Mr. Trow's Bill for the better protection of game.

On the third clause, fixing the time for shooting quail, duck, &c., at the 15th August,

Mr. WIGLE moved an amendment that the date should be fixed at a month later, which was agreed to by Mr. Trow, and the clause was amended.

Several members spoke on the question, contending that the same provision would not apply equitably to the whole of the Province. Mr McDougall suggested that the committee should rise, in order that a special committee might be appointed to divide the Province into districts. He moved an amendment to this effect, which was ruled out of order.

The clause, as amended, was then carried.

Mr. McDOUGALL moved that the committee should rise, with a view to the whole question being considered by a special committee.

Mr. McCODE and Mr. McKELLAR supported this motion, which was lost on a division.

The succeeding clauses having been carried, the committee rose and reported the Bill with certain amendments. Third reading to-morrow.

PLANTING TREES.

On motion of Mr. Scott (Grey) the House went into committee on the Bill to encourage the planting of trees upon the highways in this Province, and to give the right of property in such trees to the owners of the soil adjacent to such highways, Mr. Boulter in the chair.

The various clauses of the Bill were agreed to, and the committee then rose and reported. Third reading to-morrow.

MUNICIPAL ELECTIONS.

Mr. ANDERSON moved the House into committee on the Bill for the prevention of corrupt practices at municipal elections, Mr. Baxter in the chair.

Atty.-Gen. MACDONALD suggested that the Bill should be dropped for this session, and the amendments proposed by it be moved on the Consolidated Municipal Law next session.

Mr ANDERSON said the present bill was founded on one framed by the Attorney-General, but modified in one or two particulars. He was assured by many correspondents that there was a great necessity for the Bill, which would be increased by the application for bonuses, on account of the many railway measures passed during the session. He should test the sense of the committee on the Bill.

After some discussion, a motion was carried that the committee rise and report progress.

MISTAKEN TITLES.

Mr. BLAKE moved the second reading of the Bill for the protection of persons improving lands under a mistake of title. He said that the present state of the law occasionally necessitated the passing of iniquitous laws for the purpose of legalizing titles or to legalize conveyances made by married women, although the powers of law had not been observed in reference to them. It was held to be a cruel and unjust thing for an owner of land to lay by for years, and after allowing another person to come in and cultivate his ground under a title which the person believed to be good, but which owing to some defect in the title did not carry the land, and turn the settler out of possession and reap the fruits of his labour. This was the principle on which the various laws which had the effect of transferring one man's property to another, had been founded. It appeared to him to be no more than just and reasonable that if a man went on the land of another, believing it to be his own land, the Legislature should say that the owner, who allowed his land to lie vacant and the other man to make improvements, should not recover the land and have the benefits of the improvements without either paying for the improvements, or permitting the man who has gone in to get the land or the value of the land itself. It was unreasonable to say that the true owner should be compelled to pay the estimated value of the improvements, which might not be so valuable to him; and, therefore, the alternative to which he had referred was presented to him. He proposed that the true owner should always get all that he could have obtained if the improvements had not been made, but not the power of wresting the land away from a man who had innocently improved the land. Every member conversant with the law must be acquainted with many cases of great injustice which had occurred under the operation of the present law. The Court of Chancery refused to help a man into his lands unless he consented to pay the value of the improvements. He thought no man should be in a position to say to another, "You have sowed, I will reap; you have made that valuable which was before comparatively valueless, and not for yourself but for me." To avoid what he (Mr. Blake) had no hesitation in saying was a scandal and disgrace to the administration of the law, he brought forward this Bill. This was not a squatters' Bill, recognizing the right of a man who went upon land knowing it was not his own and improved it. Such a title would be a mistake, for it would tend to encourage encroachments on other persons' property. But where difficulties occurred owing to forged deeds, difficulties of description, or mistakes in wills—when cases occurred where men went upon land thinking it was their own, these men should not lose the value of their improvements. This was the purport of the Bill.

Hon. J. S. MACDONALD opposed the Bill. He said it would, if it became law, introduce a novel feature into our legislation, and would give rise to much mischief and hard swearing.

Mr. PARDEE said that this Bill introduced no new feature into the law. It simply provided that one man should not have the advantage of another man's labour without paying for it. The principle was so broad in justice that it could not and ought not to be denied. The House had already recognized the principle of this Bill, for last session there was a Bill passed which provided that if a man bought land under a sale for taxes, believing that, under certain circumstances, the sale was good, and that in consequence he had made improvements, he should not be deprived of those improvements without being paid for them. There was nothing novel in this Bill, and it merely enacted a principle of simple justice, already recognized by the Legislature. He believed if this Bill did not now become law, it would not be long before the Government brought in a similar measure. It was not the first time the Government had followed this course, and opposed measures brought in by the hon. member for South Bruce; he (Mr. Pardee) sometimes thought for no other reason than that they were introduced by that hon. member. He hoped the House would give sanction to this measure.

Mr. LAUDER opposed the Bill.

Hon. Mr. CAMERON said that the Bill met his most unqualified disapproval, as being calculated to deprive people of their rights. There was no such analogy between the cases proposed by the Bill and the cases of mistaken surveys and sales for taxes. The public interest required that lands should not lie idle and unproductive, and therefore they were sold for taxes; but in the Bill opportunity would be given for great wrong, since a man might enter upon land belonging to a comparatively poor man, and make such improvements on it as were beyond the means of the true owner to purchase. The effect of this was, under the Bill, simply to force the true owner to sell. The case of timber being cut off an estate was not met by this Bill. The effect of the Bill was to protect the man who had gone on the lands and sold the timber, and not the true owner of the land, who was entitled to the proceeds of the timber. He did not believe that there existed anything like such a number of cases of injustice as required the passing of such a Bill as proposed. Under this view, he moved the six months' hoist.

It being within a few minutes of 6 o'clock,

Mr. McKELLAR moved the adjournment of the debate.

BUSINESS.

Atty.-Gen. MACDONALD moved that when the House adjourns it shall stand adjourned till ten o'clock on the following morning, and that Private Bills should have precedence for the first hour on Saturday, Government business being taken up on Monday. Carried.

The House then adjourned till ten o'clock to-morrow morning.