ONTARIO LEGISLATURE.

Fourth Parliament—First Session.

LEGISLATIVE ASSEMBLY,
Toronto, Jan. 20.

The Speaker took the chair at three o'clock.

PETITIONS.

The following petitions were presented :—

By Mr. Baxter—From the County Council of Haldimand, for aid to persons who may engage in manufacturing beet root sugar.

By Mr. Bell—For certain amendments to the Municipal Act.

By Mr. Bonfield—From certain residents of South Renfrew, for the establishment of a registry office in that Riding.

Also—From James Worthington and others, for an Act to incorporate the Cobden and Opeongo Railway Company.

By Mr. Lyon—From certain freeholders and householders in the townships of McKellar, Neebing, and islands one and two, Kaministiquia River, for separation from the municipality of Shuniah.

By Mr. Widdifield—From certain ratepayers of the riding of North York, for separation from the present county of York.

By Mr. Awrey—From W. F. Orr and others, for the incorporation of the "Flos Lumber Company."

By Mr. Chisholm—From the Provisional Council of the County of Dufferin, for an extension of their powers.

By Mr. Hunter—From the Georgian Bay and Wellington Railway Co., for certain amendments to their Act of Incorporation.

By Mr. Laidlaw—From the Corporation of Guelph, for power to issue debentures.

By Mr. Parlee—From James King and others, for the incorporation of the Sarnia and Petrolia Railway Co.

By Mr. Rosevear—From Frederick Thompson and others, opposing certain amendments to the Act incorporating the Midland Railway Co.

By Mr. Striker—From the Prince Edward Railway Co., for certain amendments to their charter.

By Mr. Neelon—From the churchwardens of St. Thomas' Church, St. Catharines, for power to issue debentures.

By Mr. Merrick (for Mr. Scott)—From St. Andrew's Church, Peterboro', for amendments to the Peterboro' Protestant Poor Trust Act.

By Mr. Caldwell—From freeholders of Drummond Township, opposing a certain bonus by-law.

FIRST READINGS.

The following Bills were introduced and read the first time :—

To enable the trustees of St. Andrew's Church, Chatham, to raise $10,000, and for other purposes—Mr. Robinson.

To incorporate the Sault Ste. Marie Railway Company—Mr. Lyon.

Respecting the Sisters of St. Joseph of the Roman Catholic diocese of Hamilton—Mr. Gibson.

To amend the Municipal Act—Mr. Springer.

CO-OPERATIVE ASSOCIATIONS.

The House went into Committee on the Bill for the relief of co-operative associations, Mr. Baxter in the Chair. The Bill was reported without amendment.

THE JUDICATURE BILL.

Mr. MOWAT, on rising to move the second reading of the Judicature Bill, presumed that any discussion on this Bill would be in regard to its details, and there could, therefore, be no object in further delaying its second reading. In Committee he would give the House any information they desired on the various clauses of the Bill—how far they corresponded with the English Judicature Acts, and how far they differed from them. It was to be observed that the Bill was not an untried experiment; on the contrary, the general framework of the Bill corresponded with what had been on trial for several years in England, during which time whatever had been discovered to stand in the way of its smooth working had been removed by legislation, by rules of Court, and by judicial decisions. Considerable delay still existed in the trial of suits in England owing to an insufficiency of judges—an evil which we should not feel in this country for several years, and which could be removed by legislation when it did arise. Before the English Acts became law their provisions had been very thoroughly discussed. The subject had been repeatedly referred to in Her Majesty's speeches from the throne, and in 1867 a Commission of very able men was appointed to consider the subject. The principles of the legislation which took place afterwards were to be found in the report of that Commission presented in 1869. When before the House the Bill had been very ably and thoroughly discussed, and not only in the House, but in the various law societies, in the public journals, and elsewhere. So that probably no measure was placed on the statute book after a larger amount of able discussion than the Judicature Act of 1873. In addition to that we had the advantage of the Judicature Act of 1875, which adopted the greater part of the previous Bill, besides making several amendments and additions. Those portions of the English Judicature Acts which excited the most controversy were provisions with which we had nothing to do here. The chief difficulty in England was to provide a satisfactory Appellate Court. The House of Lords had long fulfilled that function, and clung to its ancient rights with considerable tenacity. The leading features of this legislation had been anticipated in the Administration of Justice Act of 1873, and some gentlemen thought we should now go no further. What was done then had, he believed, been admitted on all hands to be a very great reform in regard to our system of legal procedure. But he thought the time had now come when it would be expedient to consolidate the Courts and establish a uniform system of pleading and practice. Hitherto our Law and Equity Courts had each a different mode of procedure. Other countries found no difficulty in having one procedure for both, and what had been done in England was to select the best features of both systems and fuse these into one, with considerable improvements on either. He ventured to think that our experience in this country would enable us to still further improve the English system. He believed no one had claimed that this measure would not work advantageously to the suitor. It was so extremely simple, and free from technicalities, which were always the pitfalls of suitors, that it was said to be embarrassing to those accustomed to the old system. By making our laws correspond with those in England we gave our suitors the advantage of English decisions. Everybody felt that the English system must ultimately be introduced into this country, and the only question was whether the time for doing so had yet arrived. The great change effected in England was a fusion of the Courts of Law and Equity, and under the present Bill all judges would have powers of both law and equity. The most elaborate portion of the Bill was that relating to the uniform system of pleading and practice. It had been found inexpedient to have cast-iron rules in these matters, and much had been done to give the judges power to supply omissions and make corrections. It was proposed that the judges should have the same powers of making rules of Court from time to time now possessed by the English judges. At first there had been great unwillingness on the part of the judges in England to work the new Act, but such a feeling had passed away, and he believed would not exist here at all.

Mr. MEREDITH thought the country was somewhat taken by surprise by the introduction of this Bill at this time. Mr. Macdougall when a member of this House had frequently called attention to the necessity of some such measure. The Attorney-General had always opposed it, holding that the Administration of Justice Act would cover all the reforms needed, and had expressed his belief that the English Judicature Act would not work so satisfactorily as was expected. He believed that the present measure should not be regularly discussed until it had been more generally considered by the people, as no doubt in such a voluminous measure there were many points which could be improved by the additional intelligence which would be brought to bear upon them. There were, however, one or two points in the Bill with which he was not in accord. He did not believe that for merely historic or sentimental reasons the names of the old Courts should be retained, as to suitors particularly the names would in all probability be anything but pleasant. The system of numbering the Courts now in vogue in New York was, he believed, a better one. The exclusive jurisdiction of the Court of Chancery in some matters was also retained. Everybody must be in favour of a fusion of the Courts, but by such means as this the fusion obtained would be only one in name.

Mr. MOWAT replied that he quite recollected when the Administration of Justice Act was introduced gentlemen opposite advocated delay for similar reasons to that just urged.

Mr. MEREDITH—I voted the other way.

Mr. MOWAT—My hon. friend was quite right that time. I hope he will show equal good sense on this occasion. (Laughter.) The Administration of Justice Act made more important changes than those involved in the present Bill. It took the first step towards the fusion of the Courts. If he were introducing a system which had never been tried nor heard of, making such radical changes as this Bill did, he would see some reason for delay, but the system to be introduced had had the discussion and trial in England of which he had spoken. But in the discussion referred to, his hon. friend would not find that either he or his colleagues contemplated the maintenance of two systems of pleading and practice. He had held that it would be better to fuse the Courts of Law and Equity, and let that fusion be worked out by the old system, with which both lawyers and judges were familiar. One of the grave objections to the change in England was that it was carried out by new and strange machinery. He was surprised at the objection taken by his hon. friend to the retaining of the old names of these Courts. He would not allow sentiment to weigh in a matter of this kind, yet he would advocate the retention of old buildings even after they had ceased to be of use, for merely historical reasons. (Cheers and laughter.) This was a voluminous Bill, and therefore it was not a matter of great surprise if hon. gentlemen misapprehended some portions of it. In his objection to the jurisdiction given to the Court of Chancery the leader of the Opposition was somewhat astray. This jurisdiction was not intended to be a permanent thing, but was merely a matter of convenience in the carrying out of the Act. The officers of the Common Law Courts being unaccustomed to the practice in the other would be somewhat at a loss at first in conducting such proceedings, and temporary jurisdiction was therefore given to the Chancery Court, which, however, might be changed too, at the discretion of the judge when they deemed that it would be to the interest of the people to do so.

Mr. MORRIS said that this Bill was distributed only yesterday, and so far as he knew no intimation had been given at the late election that such a measure would be introduced. He thought that time should have been given to the members to send the Bill to their constituents and to the newspapers to make their summaries of it. He had a leaning towards the fusion, and did not speak for the purpose of raising objections to the provision of the Bill, but he thought, even though it were passed through the second reading now, the consideration of it in Committee should be postponed.

Mr. CREIGHTON upheld these views. He received a copy of this Bill yesterday, had done his best to understand its provisions, and had taken it to bed with him. (Cheers and laughter.) He understood that copies of this Bill had been put into the hands of the judges and of the legal members of the House in advance, on the principle, he presumed, that the Courts were established for the benefit of lawyers and judges, and the poor outsiders had nothing to do but to pay the piper.

Mr. MILLER thought it not fair to the lay members of the House to give them no time to consider this Bill. The lay members might not be able to give a legal opinion as to its provisions, but if they were not able to take a common-sense view of it,