

fusion yet, virtually, there was a distinction between law and equity. The only thing remaining in Ontario which showed a distinction was the arrangement of the circuits, but he had yet to hear that either the practitioners or the suitors were dissatisfied with the present state of affairs.

Mr. ERMATINGER said the people and practitioners of St. Thomas were desirous of having separate sittings of the court, but they had been unable to get one, which he thought arose from the present state of things.

Mr. GIBSON (Hamilton) said his object had been attained in bringing the subject before the country and he did not intend to proceed with it.

CO-OPERATIVE ASSOCIATIONS.

Mr. GIBSON (Hamilton) moved for a return showing the names of all companies or associations incorporated under chapter 167 of the Revised Statutes since the year 1877, with the dates and places of incorporation, and particularly the objects of incorporation thereof respectively. The names and like particulars as to companies or associations incorporated since the year 1877 under chapter 158 of the Revised Statutes, being the Act respecting co-operative associations. He stated that the means of incorporation under the General Acts had been so frequently taken advantage of that it would be worth the necessary time and expense to know just how the Acts had been working.

Mr. BADGEROW quite concurred in the remarks of Mr. Gibson. In Toronto alone he knew of cases where, whatever might have been the original purpose of those who obtained the incorporation of the Society, it was made the means of much fraud. He alluded to so-called benefit societies, which, after the officers had obtained the public money, had been allowed to collapse and the money retained by those in office.

Mr. MEREDITH thought the subject was a very difficult one, and one which the Government should approach with a good deal of caution. He hoped that the Attorney-General would not make any change which would bring the control to Toronto, or prevent the societies from being carried on economically.

Hon. O. MOWAT stated the present law with respect to the companies. It had been said that fraud had been perpetrated under the Acts, but this was not peculiar to these Acts, but other legislation had been made use of to the same end. He would be glad to consider any safeguards which might be suggested to more effectually protect the public. He might say, however, that the English went fully as far as the Ontario law and allowed a certain number of persons to be incorporated for any lawful purpose.

Mr. GIBSON (Hamilton) suggested that a remedy might be found in allowing the Inspector of Insurance to have control and pass judgment upon the by laws and principles of the parties seeking incorporation.

The motion was carried.

THE ADMINISTRATION OF JUSTICE.

Mr. MEREDITH, in the absence of Mr. Morris, moved for a return of copies of all regulations directed and appointed by the Lieutenant Governor in Council under authority of the Act respecting the Expenses of the Administration of Justice in Criminal Matters—Con. Stat., Cap. 86, for the examination, auditing, vouching, and approving of such expenses as are paid out of the Consolidated Fund in accordance with said Act. Carried.

DIVISION OF SCHOOL SECTION.

Mr. GIBSON (Huron) moved for a return of copies of all correspondence between the Department of Education and the Inspector of the county of Dufferin or the Trustees of School Section No. 1, East Luther, or any other person relating to the division of the said school section. Carried.

Mr. CARNegie moved for a return giving information with regard to the Ontario College of Agriculture and Farm as far as the amounts received from the sale of stock, the amounts due for board, stock, etc.

Hon. A. M. ROSS did not oppose the motion, but to bring the information down this session would involve the expenditure of considerable money. Carried.

It being six o'clock the Speaker left the chair.

After Recess.

PRIVATE BILLS.

House in Committee, Mr. O'Connor in the chair.

To legalize, confirm and render valid certain by-laws of the Town of Lindsay.—Mr. McIntyre.

To incorporate the St. Clair, Essex Centre, and Erie Railway Company.—Mr. Balfour.

To consolidate the debt of the Town of Whitby, and to provide for the collection of taxes therein.—Mr. Dryden.

Respecting the St. Catharines and Niagara Central Railway Company.—Mr. Neelon.

To enable the Trustees of the will of the late John Lyons to invest certain moneys in certain improvements upon the trust estate, and to sell certain real estate.—Mr. Clarke, (Toronto).

To amend the Charter of Incorporation of the Niagara Falls International Camp Meeting Association.—Mr. Morin.

Respecting the Town of Sarnia.—Mr. Pardee.

Respecting the Debenture Debt of the City of Guelph.—Mr. Laidlaw.

To incorporate the City of Stratford and for other purposes.—Mr. Ballantyne.

MUTUAL INSURANCE NOTES.

Mr. O'CONNOR moved the House into Committee to consider the Bill respecting Mutual Insurance Companies.

Hon. C. F. FRASER said that before the House went into Committee upon the Bill, it would be advisable to have the opinions of hon. gentlemen expressed upon it. On this Bill we have had some discussion before. As it now stands before the House it is an old friend in new clothes. When it came up before it was a Bill of one short section, which repealed two sections of the Act respecting Mutual Insurance Companies. One of these proposed to limit the time when a company could bring action. The committee to which it was referred struck that provision out, and we are no longer considering that. It also contained a provision to repeal that section of the law which provides that if suits on premium notes the Division Court of the division in which the head office is situated should have jurisdiction. The law respecting Division Courts is an exception to all other matters. In respect to all money matters outside of Division Court actions, a man may bring a suit in this Province from one end of it to the other. The idea, I suppose, why the exception was made, was that the Division Court being a poor man's Court it was desirable that as little expense as possible should be put upon a defendant who was compelled to be sued for a small amount, and therefore, I apprehend, that the suit should be brought in the Court nearest where the defendant resided. Nearly twenty years ago, prior to Confederation, a change was made in reference to the Division Court Law in regard to mutual insurance companies. I apprehend that the reasons were that it was found, so far as they were concerned, the rule, which, as regarded the poor man, made it necessary to secure that the costs of litigation should be small in trifling suits, made it necessary that the costs to mutual insurance companies should also be small, otherwise the companies might as well go out of the business. As this Bill is now before us it is in a better position than it was originally.

The proposition now is that, in case of a person being sued at the Division Court nearest the head office, by making an affidavit the defendant can have the action taken to the Court where he resides, or at the option of the company, to where the note is made, which, in every case, would be the division in which the defendant resides. The mutual insurance companies have made out a strong case against this Bill. I think representatives from every mutual insurance company in the Province appeared before the Committee, opposing the Bill as it originally stood. I understand they likewise oppose the proposition as it stands now before the House, and as I feel that the law ought not to be changed to such an extent as this Bill proposes, feeling that every man has protection enough without this proposition, I think it is the proper stage to take the opinion of the House whether or not it shall become law, or whether the change which I propose shall be adopted. I think men who enter into insurance companies are men who pretty well understand their own affairs; that they are not likely to be misled as to the character of the agreement they are entering, and every man knows he is signing a promissory note. He is not in the position of a man who is deceived by patent sellers who signs what he thinks to be an order for some article, but what afterwards turns out to be a note for the payment of money. In all cases that I have had any experience in the defence has always been that the plaintiff was not entitled to recover, either because the assessment was not legally made, or made too high, or some other fact existing outside the making of the note, and therefore I say that if to every man who enters mutual insurance you plainly give him notice of what the law is he has ample and full protection, and if after that he deliberately proceeds to make himself liable to be sued in the Division Court in which the office is situated, the House is not responsible for his further protection. I think the House ought not, without the gravest deliberation, to pass any legislation that may result in the crippling of some of these companies, and the destruction of others of them. I therefore ask the House to pass a provision that these companies shall have printed upon the face of their notes the law in such a form that every man who enters into one of them shall have notice of the law as it stands. I beg to move:—

That there be added to the original motion these words:—"And the Committee of the Whole House is instructed to amend said Bill, No. 83, that in lieu of the provisions now therein contained, there shall be substituted the following:—1. Section 71 of Chapter 161 of the Revised Statutes of Ontario, entitled, 'An Act respecting Mutual Fire Insurance Companies,' is hereby amended by adding thereto the words following: Provided always that the provisions of this Section shall not apply to nor include any such premium note, or undertaking made or entered into after the first day of July, 1885, nor any sum assessed thereon, unless within the body of such note or undertaking or across the face thereof, there was at the time of making or entering, with the same printed in conspicuous type, and in ink of a colour different from any other in or on such note, the words following: Any action which may be brought or commenced in a Division Court in respect or on account of this note or undertaking or any sum to be assessed thereon, may be brought and commenced against the maker hereof in the Division

Court for the division wherein is the head office or any agency of the company."

Mr. O'CONNOR said it was clearly admitted, by the amendment moved by Mr. Fraser, that there was a wrong existing, and the amendment sought to rectify it. The mutual insurance clause was an exception, and all he asked was that they should fall within the scope of the general law. As the Bill is amended it allows a company to sue in the Division Court where the head office is situate, but if a man sued by affidavit it showed that he did not reside in the jurisdiction of the Court where the action was commenced; that the cause of action did not arise there; and that he was advised or believed that he had a good defence on its merits. The only difference with regard to the change of venue, as provided for by the amended Bill, was that in the latter case it was an *ex parte* application and would be granted as a matter of course, while in the other both sides were heard. But the Board goes further. It was argued the other day that the companies could not be asked to take their books three or four hundred miles into the country. He

SAW THE FORCE OF THIS,

and he now provided that the companies should not be called upon to take their secretaries or books, and he proposed to allow them to take extracts from the books, sworn to as *prima facie* evidence. There might be objection to the term *prima facie*, but he would remind them that all evidence was of that character and was open to rebuttal. He would review the arguments against the Bill as advanced in the Committee. The Hon. Commissioner of Public Works had said that in order to have the venue changed a man had only to swear. Only to swear. He would tell the hon. gentleman that however it was regarded in Brockville, in Bruce swearing to something false is a crime, and he did not think the farmers of the country were going to swear to something that its false. Then it might be said that a man would gain time and thus swear that he had a good defence when he had not. Take the case of a ten dollar suit entered at Guelph against a party living at Belleville. Would a man if he had not a good defence change the venue from one place to the other to lose his case and then have the extra costs to pay? It was also urged that as the law now stands there is not the same chance for the frauds which were perpetrated two years ago being repeated; he granted that, but said there was some danger, and showed that in many cases an Insolvent Company might be suing parties and blackmailing. If the law passes it will

NOT HURT THE HONEST COMPANIES,

but only the dishonest companies, and prevent them "going through" farmers as in the past.

Mr. YOUNG—This measure, Mr. Speaker, is one which is of the greatest importance to the country, and it would injuriously affect some of the oldest established institutions in the country, and ought to be discussed in a calm and careful manner. I may say without attributing any motives to my hon. friend, and gave him credit for having the interest of the people at heart as much as I have myself, yet I do not hesitate to say after matured deliberation that this Bill as originally brought in, and even now as amended, is one of the most dangerous measures ever known or introduced either in the Legislature or the Dominion Parliament. Now, Mr. Speaker, I will not follow the hon. gentleman into all the points that he raised. His Bill as amended is not as bad as the original measure, but it has not changed in its principle, and the only difference between the Bill now and the one introduced is that it will be a little slower in its effects. So far as the result is concerned the effect will be the same. It is true that if this measure passes a person who wishes to have a case tried in his own locality will have to make an affidavit that he has a true and just defence, but we know perfectly well in a matter of this kind that these affidavits will be made right and left all over the country. I say that without imputing that the people are dishonest, and I give my hon. friend credit for being a better lawyer than to suppose that he could not draw up an affidavit in almost every case in such a way as to save his client from a prosecution for forgery and yet succeed in getting the change of venue made. I content, sir, that if this measure passes, it should be called an Act

TO INCREASE THE PROFITS

of country legal practitioners throughout the Province. I am quite satisfied that there will be a large number of suits if the Bill passes. I wish to point out here that there is a wide difference between premium notes and promissory notes. The latter are sometimes taken when the insurer is unable to make a portion of the cash payment required, but if a suit is entered under these the company is compelled to sue under the ordinary law, but a premium note is altogether another thing. In suing under a premium note there are many things to be considered and proven. It might be asserted that the directors were not elected according to law, that the meeting at which the assessment was made was regularly called, that the assessment was too high or too low, and the companies would have to rush all over the country to prove that in these respects they had complied with all the requirements of the law, and to defend the suits. I wish to say a few words about the companies themselves. What is the company? The men who give the premium notes. A large