

ONTARIO LEGISLATURE.

Sixth Parliament, Second Session.

(By Our Own Reporter.)

February 16, 1888.

The Speaker took the chair at three o'clock.

THE EVENDEN ANNUITY.

Hon. OLIVER MOWAT moved that this House doth ratify an Order in Council approved by his Honor the Lieutenant-Governor on the 26th day of January, 1888, waiving the claim of the Province to a certain annuity of the sum of \$75, devised and bequeathed to the Deaf, Dumb and Blind Institution of Upper Canada, by one James Evenden, deceased, formerly of the Town of Barrie, who died on or about the 5th day of November, 1867. He explained that the estate of the deceased had turned out much less valuable than had been expected, and as the relatives were in poor circumstances it was thought a fitting thing that the Government should forego its claim to the annuity which had been bequeathed to the Deaf, Dumb and Blind Institution as stated. In reply to a question by Mr. Meredith, he stated that his knowledge of the facts came mainly from correspondence, but he had no doubt that the facts were as represented.

The resolution was carried.

MERCER ESTATE AGAIN.

Hon. Mr. MOWAT moved:—That this House doth ratify an Order in Council, approved by his Honor the Lieutenant-Governor on the 25th day of January, 1888, with reference to the application of The Prison Gate Mission for the discharge of a certain mortgage, dated the 24th day of January, 1863, made by Samuel G. Ridout and Rebecca, his wife, to the late Andrew Mercer, to secure the repayment of £401, with interest at 6 per cent., such mortgage being part of the escheated estate of the said Mercer, and directing that the lands covered by said mortgage be released and discharged therefrom. He explained that while it had been decided that the real estate left by the late Andrew Mercer escheated to the Province as representative of the Crown, and not to the Dominion, no decision had yet been reached as to the personal property. The matter had been brought before the Courts—the Dominion joining in the suit—but the Courts refused to hear the case as then presented, and he confessed he did not know how it could be brought up. However, as the estate, so far as it had been left to the Province, had been used for charitable purposes, the organisation to which it was proposed to release this mortgage was an exceedingly useful one, being devoted to reclaiming women who had been in prison. It had done an exceedingly useful work. The Minister of Justice, on behalf of the Dominion, had concurred in this disposition of this portion of the property. He thought the proposal he made would meet with the approval of the House.

Mr. MEREDITH said the Premier had taken advantage of nearly every opportunity he could find to raise a question of Provincial rights, stirring up bad blood and saddling the Province with a heavy load of expense. He (Mr. Meredith) was glad to see that the hon. gentleman was beginning to act upon the advice given him by the Opposition by trying to settle these questions on a common-sense basis. He hoped the new departure would be continued.

Hon. Mr. MOWAT—The policy and practice of the Government on this point are the same now as they have always been. (Hear, hear.) We only raise constitutional questions involving Provincial rights when it was important that they should be raised, and when the Dominion resisted the Provincial view, and when we were right in the position we took. (Loud Cheers.) Then in regard to getting the concurrence of the Dominion Government in matters of this kind, this is not the first instance in which we have done it. Where both Governments concurred in the appropriation of the money to a particular object there was no object in litigation, and in such cases we have never had any litigation, and repeatedly during several years past agreed upon these matters rather than have litigation where we thought there was the slightest question of our right, though we do not think there is much question in this case. (Cheers.)

The motion was carried.

ANCILLARY PROBATE.

Hon. O. MOWAT moved the second read-

ing of the bill respecting ancillary probates and letters of administration. At present where a person dies out of Ontario and letters of administration are granted elsewhere, or the will is proved elsewhere, a new probate or letters of administration must be granted here, causing delay and expense. This matter was considered at the Intercolonial Conference in London and there was a general agreement as to the practicability of re-organising throughout the Empire probate or letters of administration granted in any part of it. The Inter-Provincial Conference at Quebec came to a similar conclusion, and it was agreed that the Provincial Legislatures should to that end pass concurrent legislation. So it is proposed that the Act shall go into force at once, so far as the Provinces are concerned, and that it shall go into force by proclamation regarding any part of the Empire which is willing to reciprocate by passing similar legislation recognising probates granted in Ontario. He proposed to add a clause to the bill compelling the executor to give security for the assets in Ontario.

Mr. MEREDITH thought that the sealing of the probate or letters of administration should be done by the county judge instead of by the Surrogate clerk.

Mr. FRENCH suggested that the Act should be made to apply to the Territories as well as to the Provinces of Canada.

The bill was read the second time.

MAINTENANCE OF DESERTED WIVES.

Hon. O. MOWAT moved the second reading of the bill respecting the maintenance of wives deserted by their husbands. At present a husband who deserts his wife and family or neglects to support them is liable to fine and imprisonment, but this remedy is a very unsatisfactory one for the family. The bill proposes that the same tribunal, namely, a magistrate or two justices of the peace, shall have power to order the payment of an allowance in such a case. The Superior Courts now have this power, but the procedure is too expensive for many women to undertake. He favored a suggestion which he had received from a learned judge, a friend of hon. gentlemen opposite, namely, that the appeal shall be to the Division Court Judge and not to the Division Court.

Mr. MEREDITH said that everybody must sympathise with the object of the bill. The law was now practically a denial of justice to the poor. He did not, however, think that so extensive a power as granting alimony up to \$10 a week should be conferred upon justices of the peace, and he thought it would be better if the power were given to a police magistrate or a county judge.

Mr. O'CONNOR agreed with Mr. Meredith.

Hon. O. MOWAT said that difficult cases might occasionally arise, but it was not desirable that for the sake of one case out of 200 a more cumbersome method should be adopted for the other 199. Generally speaking, these cases were extremely simple, and there was an appeal to the county judge where there was any difficulty.

Mr. FRENCH said it was a very serious thing to allow a justice of the peace to try the question of a woman's virtue, which often arose in these cases.

Hon. C. F. FRASER said that the same tribunals already had power to try these cases, the only difference being that the present remedy was criminal instead of civil.

Mr. MEREDITH said this gave power to two justices of the peace to declare a woman guilty of adultery, though the law as already on the statute book provided cases of seduction should not be decided even by the County Court.

Mr. MOWAT said that the reason why the County Courts were not authorised to deal with the cases mentioned was that they involved questions of damages. He pointed out that the other legal remedies hitherto open to women deserted by their husbands were still open. This was a new remedy, of which they need not take advantage unless they chose.

The bill was read the second time.

ARBITRATION WITH QUEBEC.

Hon. Mr. MOWAT moved the second reading of the bill respecting arbitration with the Province of Quebec. He explained that this bill authorised the disposal of certain questions at issue between the two Provinces by arbitration. The principal of these had already been explained by the Treasurer in his Budget speech. One was in connection with the Upper Canada improvement fund—Crown lands sold before Confederation. There was also a question as to school lands sold since Confederation. For some years the award was repudiated by Quebec, but money on account of these lands continued to be received and the Province had to account for them. It was proposed that all the arbitrators should be judges, one to be appointed by each Province and one to be appointed by agreement, the third to be

unconnected with either Province.

Mr. CREIGHTON expressed pleasure that at last something like a practical step had been taken towards a settlement of this question in which so many of the municipalities were interested. It was to be hoped, however, that it would not be the same as it had been in the other case, for this arbitration was merely to settle an arbitration which had previously been appointed and had given a decision. He hoped that the settlement by this arbitration would be a settlement in reality.

Mr. MEREDITH said that last session the suggestion was made from the Opposition side of the House that the reasonable, sensible course in this matter was a reference to arbitration. But the Treasurer at that time declared that there was nothing to arbitrate, that it was a question of law. He (Mr. Meredith) was glad the hon. gentleman had decided to take a more moderate view. No doubt the gentlemen at Quebec, with their exceedingly kind reception of the hon. gentleman and his colleagues, had induced him to moderate his views somewhat.

Hon. Mr. ROSS (Huron) said that last session he had declared his opinion that there was no question in this matter. An arbitration had been held and an award given, and it was the duty of the Dominion Government, which had charge of the funds, to place to the credit of the Provinces the sums as awarded. He, as Treasurer, had repeatedly asked the Dominion Government to do its duty, but without success. Having failed, the recourse must be either to the Courts or to arbitration, and his preference was for the latter. As to the influence of the reception at Quebec, he might say that this arbitration was agreed upon before the Quebec Conference was held. (Hear, hear.)

The bill was read a second time.

SUPPLY.

The House then went into Committee of Supply, Mr. Harcourt in the chair.

THE IRREGULARITIES.

In the discussion of the appropriations for salaries and expenses of the Treasury Department,

Mr. MEREDITH called attention to the record in the Public Accounts relating to the recent irregularities. He supposed that it was due to the appointment of an auditor independent of the Government (as the result of a motion from the Opposition side) that these irregularities were discovered. As he understood from the Treasurer's statement, Mr. Munro, who investigated the case, was appointed as special auditor. But it was strange that no communication of the fact was made either to the Public Accounts Committee or to this House. On the contrary, it looked as if there was an effort to conceal the facts, for he found that the items in the public accounts showing the payment to Mr. Munro explained his services to be only those of a "clerk." This course was not worthy of the Treasurer, and it was not fair treatment of the House. The hon. gentleman, in his speech, sought to make a point against the Dominion Government by saying that the officer wholly or in part responsible for these irregularities was now in the service of that Government. Surely political capital was not to be made at the expense of the character of persons in the public service. Surely, if the Treasurer was not in a position to make a direct charge against this man, he should have refrained from speaking of him as he did. With the Attorney-General in his place such insinuations as had been indulged in against this officer were doubly unworthy, for, if he had been guilty of wrongdoing, the Attorney-General should bring him to justice. This was not a subject to be used by the Treasurer merely to raise a laugh. If any officer had been guilty of anything wrong in relation to the public funds he expressed the hope that the Public Accounts Committee would be called together and an opportunity given to investigate these matters.

Hon. Mr. ROSS (Huron) said he had given the information on this subject at the earliest moment he could after having learned accurately the facts. The last speaker had found fault with him for not speaking earlier and also declaimed against charges being made against public officials in such cases unless criminal actions were taken, thus contradicting himself. The discovery of the irregularities was made before the appointment of the auditor under the present system. He had not said that he employed a special auditor, but that he engaged an expert accountant unconnected with the department. That gentleman reported at first a greater discrepancy than was afterward found. But the officer who was responsible for the books denied the accuracy of the report and asked that he might have expert assistance to help him. This was freely accorded. The examination was carried on as rapidly as possible, and it was only about five days before the opening of the House that he was placed in possession of the exact figures. Having accurate information, he took the earliest opportunity of laying it before the House.