

Sixth Parliament, Second Session.

(By Our Own Reporter.)

February 20, 1888.

The Speaker took the chair at three o'clock.

FIRST READINGS.

The following bills were introduced and read a first time:—

Relating to the expropriations of land for High school purposes—Hon. G. W. Ross.

To incorporate the Manitoulin & North Shore railroad—Mr. Lyon.

AN EXPLANATION.

“Mr. INGRAM stated that in Friday's “orders of the day” his name appeared as the author of “An Act to amend the Act incorporating the Brockville, Westport & Sault Ste. Marie Railway Company.” He was not the author of the bill, and had no desire to father it. (Laughter.)

THIRD READINGS.

The following private bills were considered in committee and read a third time:

Respecting the debt of the Town of Brussels—Mr. Gibson (Huron).

Respecting Trinity church, Toronto—Mr. Leys.

THE REVISED STATUTES.

Mr. FRENCH asked if it was the intention of the Government to furnish to each magistrate, free of charge, the two volumes of new Revised Statutes, or merely a separate volume containing the municipal law and the laws relating to the duties of justices of the peace.

Hon. O. MOWAT said it was not the intention of the Government to print a separate volume of the municipal law and the laws relating to the duties of justices of the peace, but it was the intention of the Government to furnish each acting magistrate with two volumes of new Revised Statutes, and the Government was now considering to whom the Revised Statutes should be sent.

APPOINTMENT OF FIRE GUARDIANS.

Mr. FRENCH moved the second reading of his bill to authorise the appointment of fire guardians. He supposed there would be no objection to this bill being sent to the Municipal Committee. He explained that the bill was based on ideas obtained from an investigation of the methods pursued in the Western States and in Manitoba, in regard to dealing with bush fires. The bill provided for the appointment of fire guardians by township municipalities, from whom leave should be secured before starting any fires between the beginning of June and the end of October in any place where they would be likely to spread and cause damage, the fire guardians to inspect before granting leave, and the leave of such fire guardians not to release the starters of such fires from the penalties for negligence in action. There was a difficulty in the way of making any substantial law on this point, because it would interfere with the common law of the country. In conclusion, he begged to state that although this was a bill which related especially to the interests of farmers, yet he was not a candidate for the position of Minister of Agriculture. (Laughter.)

Hon. O. MOWAT—“I thought you were.”

Hon. C. F. FRASER said he saw no objection to the bill going to the Municipal Committee. It seemed to him, however, that if it became law it would hardly be a benefit to the farmers of the country. It would be a great hardship to a farmer to be compelled to seek the permission of one of these proposed fire guardians before he could set out a fire, no matter how small it might be. The nearest fire guardians might live a good many miles away, and a settler in a new district, who would have most need of setting out fires, would be subjected to very great inconvenience over what might be a very trifling matter. He admitted the desirability, however, of the law being amended so as to diminish the damage done by bush fires, and favored the sending of the bill to the Municipal Committee.

Mr. FRENCH remarked that his bill aimed at preventing the setting out of fires in old settled districts rather than in newly settled localities.

Hon. Mr. HARDY said the question of the appointment of fire guardians involved several other questions, such as to how these guardians were to be paid and how much they were to be paid. These additional points made the matter considerably more serious. Respon-

sible men were not going to take upon themselves the onerous duty of supervising all the bush fires extending over a more or less extensive territory without considerable emoluments. Such “fire guardians” as were proposed would have not only to investigate the general character of the land on which the bush fires occurred, but would have to look into the particular spot, thus necessitating considerable expenditure, besides a salary. Then there was the question as to how many of such officers there should be. Perhaps it would be suggested that every roadmaster should be a fire guardian, but then in some cases they would be too numerous, and in others too few. He would not, however, oppose the bill being sent to committee.

Mr. ARMSTRONG was not prepared to endorse this bill exactly as it stood, but he thought legislation was needed along the line it proposed. Great damage had been frequently done by the spreading of fires by rising winds, etc., and some sort of supervision would no doubt serve as a much-needed check upon settlers who were careless in this respect.

Mr. MEACHAM said he thought the bill calculated to do a large amount of good.

Mr. PHELPS pointed out that a fire might be started under what would seem the most favorable circumstances, but a few hours later the wind might rise and a perfect hurricane spring up, which would cause the fire to spread and do great damage. The man who set out the fire would be the cause of the disaster, but seeing the damage done was not due to any negligence on his part and that he could not in any way have prevented it, it would be unfair to blame him for it. Settlers in new districts were compelled to resort to setting out fires in order to clear their lands, and it would be cruel on the one hand to prevent their doing so and unfair on the other to blame them for damage arising from no lack of care on their part, but from their inability to control the elements.

Mr. WATERS agreed with the last speaker.

Hon. A. M. ROSS thought the whole matter could safely be left in the hands of the Councils of the different townships.

The bill was then read a second time.

SHORT FORMS OF MORTGAGE.

Mr. GIBSON (Hamilton) moved the second reading of his bill “To amend the Act respecting Short Forms of Mortgage.” He remarked that this bill had suffered very badly in advance in consequence of the answer given a few days ago to a question put by the hon. member for Carleton, asking if the Attorney-General's attention had been called to a decision of the Chancellor in the case of Gilchrist versus Island. The answer of the Attorney-General showed him to be in entire sympathy with the decision of the Chancellor, the effect of which was that where mortgages contain provisos for the sale without notice in the hands of an assignee, no power to sell existed. The hon. member went on to show that the Chancellor held that while under such defective power there might be an old license of which the original assignee could avail himself, yet this privilege could not descend to the assignee along with the assignment of the land. This decision, he contended, was a surprise to the profession, and on a very technical point, and while all the Chancellor's decisions were regarded with great respect, yet men eminent in the profession held the opinion that in this particular his decision had been a very wrong one. The hon. member elaborated his points at some length, with a view to showing that the prevailing system in connection with short forms of mortgage was unjust to mortgagors.

The ATTORNEY-GENERAL objected to the bill being allowed to cover past transactions, and thus have an ex post facto

operation. He referred to the general Act passed in 1879, which provides that when six months' default has taken place and three months' notice has been given, a sale can be effected in all cases where the instrument does not contain power to sell. The great object of all legislation, moreover, was to protect the weak against the strong, the debtor against the too ardent creditor, and this bill, it appeared to him, if allowed to have retrospective operation, would have the reverse effect. He would not raise any objection, however, to the bill operating in future transactions if the hon. member would agree to its being sent to committee on those terms.

Mr. GIBSON contended that the point made by the Attorney-General in referring to the general Act bearing on this matter did not apply to cases where there was a power of sale, although a defective one. However, he would accept the compromise of the Attorney-General, and if that hon. gentleman liked to assume the responsibility of not allowing it to affect past transactions, he was content.

The bill was read a second time.

MUNICIPAL NOMINATIONS.

Mr. DACK moved the second reading of his bill “to amend the Municipal Act.” He explained that the “object of the bill was to allow of the nominations for Councillors in Township Councils being made at the same time and place as the nominations for Reeve and Deputy-Reeve, etc.” Under the present arrangement it too often happened that nearly all the electors had returned home after the nomination for Reeve, etc., and that hardly any were present for the Council nominations, the consequence being that Councillors were frequently returned by acclamation when electors would have been glad of a chance to vote upon them.

The bill was read a second time.

The House adjourned at five o'clock.

COMMITTEES.

The following committees meet to-day:—
Printing Committee at 2 p. m., Acct's office.
Railways Committee at 10 a. m., Library.
Private Bills Committee at 10.30 a. m. Room 16.
Public Accounts Committee at 11 a. m., Treasurer's office.

NOTICES OF MOTION.

Mr. Nairn—Thursday next—Bill to amend the Municipal Act.

The Attorney-General—Resolution that the notice appearing as the Resolutions of the Interprovincial Conference be the first order of the day for Tuesday, 28th inst., and if the debate is not concluded on that day the motion shall be entitled to precedence over all other business on each day afterwards until the matter is disposed of.

Mr. Balfour—Wednesday next—Bill to amend the Municipal Act.