

# New Judicial System Discussed in Legislature

## Law Business Will be Centralized at Regina--Haultain and Brown Oppose the Bill--Many Questions Asked of Government

TUESDAY, FEB. 26.

The House sat for less than twenty minutes today.

The attorney general gave notice of the following bills: Respecting the devolution of estates; respecting the property of married women; respecting the form and interpretation of statutes; respecting witnesses and evidence.

Mr. Calder gave notice that on Thursday he would move the House into committee of the whole to consider a resolution to provide for the organization and maintenance of secondary educational institutions.

Dr. Elliott gave notice that on Thursday he would ask the government certain questions relative to the organization of the Lemburg Agricultural Society.

Mr. J. T. Brown gave notice that on Friday he would ask the government what number of public libraries had been or are in course of being established under the Public Libraries Act of last session.

On motion of Mr. Calder it was resolved that on Wednesday the House will resolve itself into committee to consider the supply to be granted to His Majesty.

The second reading of the bill to establish the supreme and district courts was allowed to stand over.

Before the adjournment, Mr. Lamont laid on the table the correspondence respecting the following memorials adopted by the House at last session: Relating to the railway to Hudson's Bay; respecting a reference to the privy council respecting the constitutionality of the Saskatchewan act; respecting school grants; respecting an invitation to their Gracious Majesties to visit Canada; respecting the claim of the retired servants of the Hudson's Bay company and their descendants; respecting Prof. Mavor's report on the Canadian west.

The House then adjourned.

WEDNESDAY, FEB. 27.

The consideration of the supreme courts bill and the transacting of formal business occupied the attention of the House throughout the whole afternoon today.

Mr. Calder gave notice that he will introduce on Friday a bill respecting the establishment of a provincial university, and Mr. Brown gave notice that he will on Friday introduce a bill respecting the Methodist church and one amending the public libraries act.

Returns Asked.

Mr. Wylie gave notice that on Friday he will ask for a return showing: 1. The amount of money to the credit of large local improvement districts in the first day of January 1906.

2. The amount of taxes collected in each since that date.

3. The amount of money spent in each district since that date.

4. The amount of taxes now due and not collected in each district.

New School Districts.

Mr. Gillis gave notice that on Friday he will move for a return showing the number of applications that have been received for the establishment of public and separate schools in the province since Jan'y 1st, 1906, and

The number of each class of such schools that have been actually established during that time or are in course of establishment.

Hall Insurance.

Mr. Ellis gave notice that on Friday he will move for a return showing the names of persons appointed as appraisers of losses occasioned by hail in the electoral district of Mooseomin during the adjournment.

The names of the applicants for compensation on behalf of which the appraisers were appointed, and

The amount of money claimed by and paid to each of the said appraisers for each appraisal made by him.

That Reference.

Mr. Haultain gave notice that on Friday next he will move for a return showing all correspondence between the government of the province and the Government of Canada concerning the memorial of the House respecting the references to the courts of the constitutionality of the Saskatchewan Act.

This is with a view to getting further information than that of a formal nature presented to the House a few days ago.

Agnew Investigation.

The motion of Mr. Haultain for copies of all letters, telegrams, reports, commissions and other correspondence whatsoever with the respect to the dismissal of T. J. Agnew from a commission of the peace was on the order paper, and in making the motion the leader of the Opposition said that the House would reflect from the papers brought in to the House and the remarks of the attorney general made last session that Mr. Agnew, by a reversal of the ordinary rules of justice by which a man is first tried and then punished, was removed from his commission of the peace on some statements made in a petition which was not in the hands of the government at the time this high-handed action was taken.

A commission was appointed to make inquiry, and it was assumed that the investigation had been held and no doubt a report made. In the circumstance and considering the amount of comment at the time and the political significance of the affair it would be of interest to the House to have full information of the affair.

The motion was agreed to and the return ordered.

Before the orders of the day were called Mr. Lamont laid on the table further copies of the minutes of proceedings in conference between the members of the various provincial governments and the Dominion.

Judicature Act.

Mr. Lamont moved the second reading of the bill to create a supreme court for the province, and stated that in doing so he would also consider the bill to create a district court at the same time, as he thought that there would be many points at which the two were closely related.

He explained the present system of courts within the province, pointing out that with only four judges, one of whom was only recently appointed, there was much dissatisfaction, although, doubtless, it had worked well enough at the times it was framed.

There were many points at which no court was held, and persons having litigation processes to go through in many cases were obliged to go many miles to the holding of a court. With the influx of population it was felt that this was a circumstance which could no longer be tolerated and the present bills were introduced with a view to doing away with the evil.

Five Judges.

In order to meet the defects of the present system, the present act was brought in to provide for the establishment of a supreme court to consist of five judges residing at Regina, who will form the appellate court, and also the establishment of district courts system with eight district court judges to preside over the work in the districts to be named Cannington, Mooseomin, Yorkton, Regina, Moose Jaw, Prince Albert, Saskatchewan and Battleford. The Dominion government appoints judges, each of whom would reside in the district over which he has supervision.

Jurisdiction of Court.

The judges of the district court would have power to try cases involving \$300 or less, and the supreme court judges would have power to try cases over that amount. The districts for the present will be made large, but it was expected that with the increase of the population more would be created, and provision is made in the act whereby the lieutenant governor in council can create more. The district judges would also have power to do chamber work, in fact they would become local masters of the supreme court.

Qualification of Judges.

Taking the bill by clauses, the attorney general pointed out that qualification clauses were inserted, the one for the supreme court judges requiring ten years' residence and the one for the district court judges requiring three years' residence and the necessary legal qualification as well. This clause was inserted advisedly, although if it was accepted it was intended to take it out and insert in a special bill and the clauses could only have the effect of making recommendations to the Dominion Government.

The bill made provision for the working of the jury system, and accepted the English practice of 1896, it being thought preferable to that of 1907 on account of the lawyers being more familiar with the work.

The jury clauses gave the right to a jury in actions of contract for \$500 or over. Personally, the attorney general said, he believed in doing away with the jury in civil actions as much as possible, but the feeling generally was still in favor of that system, so it was adopted. The making of suits of court and procedure was left to the judges of the superior court.

Mr. Brown Speaks.

J. T. Brown said that the objects of bills such as that before the House should be to make the administration of justice as simple, convenient, inexpensive, safe and satisfactory to the people of the province as possible. The convenience of the members of the bar and the judges of the bench should be made subservient to that of the people in every instance, and while he was sure that the attorney general and the government in considering the legislation in question had no doubt this object in view, he was inclined to think that when the bills were looked carefully into, the end was not reached in this legislation.

The policy of the government was to divide the administration of law between superior and inferior courts, and when looking to the provinces to the east and to the west, it might be thought that this is the better, more convenient and least expensive system, he was forced to confess that, after considering the matter very carefully, he had come to the conclusion that perhaps Saskatchewan would not be ill-advised if they adopted in this instance the system of the province of Quebec, a system whereby judges in this province will be increased, and the system will be still in harmony with and along the lines of administration of law at present tending to decentralization rather than to centralization.

Located at Regina.

Under the proposed system the judges would all reside at Regina. While the remarks of the attorney general in favor of this might be pertinent under the present condition of affairs with three judges, they would not be pertinent in view of the appointment of 15 judges. The

after all, judges were but human and the system proposed would allow of the feeling that the judge who today judges his fellow benches case, is being judged tomorrow by that same colleague. The system he proposed would be a little more expensive than the government plan, costing as it would \$48,000 a year for the seven judges and \$22,000 for the appeal judges. This would be but \$2,000 a year more than under the Government plan and he thought it would lead to less complications and less appeals from decisions. A movement much along the same lines was started in England at the present time, and he was convinced it would ultimately spread to Canada.

Courts of the North.

The attorney general had stated that in the judicial district of Saskatchewan the judge was unable to hold court as often as required owing to the pressure of work, but he would not see without any objection towards the present incumbent of the bench, that the reason the courts were not held more often in that judicial district was that the judge was away altogether too much of the time and altogether too frequently. The idea should not be to bring the people to the courts, but rather to take the courts to the people. The system of doing this which he proposed would be a little more expensive and certainly would provide a stronger court with a more uniform system and just as great a standard of efficiency.

The Courts.

The man who would not pay his debts is the man who should bear the brunt of the litigation to secure the payment of such obligations, he said, and he was quite prepared to go so far as to say that there should be no question of expense so far as small debt cases were concerned. He would almost say should do up to a certain point, making, however, proper safeguards for the wage earner.

Local Masters.

While the attorney general had said that the county court judges would be the local masters of the supreme court, there was no guarantee in the bill that they would have any jurisdiction whatever in supreme court cases. The act was delegating to the judges of the supreme court the powers which hitherto belonged to the legislature. Heretofore the legislature stated what the procedure should be, but the act gave that power to the judges. That might be all right as far as the practice in Ontario, but it seemed to him that there were too many Ontario ideas incorporated in this bill. He was not prepared to admit that the judges of the superior court would have such wisdom as would guarantee the safety of leaving and delegating this whole matter to them. The attorney general, as a member of the House and leader of his profession, should delegate that procedure.

Jury Cases.

Section 59 provided for the hearing of cases by jury, and was a reversal of the policy that existed at the present time, in that cases of a certain size must be tried by jury and not leaving that matter open to the discretion of the judge. In an expensive manner, in fact, the whole act is pretty much with the superior judges to make litigation expensive. The only guarantee of the bill was that litigation by the expensive rather than the inexpensive way should apply unless the superior court judges made rules to the contrary.

Question of Costs.

Mr. Brown thought that the costs in county court cases should be made reasonable. The present system is not satisfactory in that it made the man who was forced to go to law to recover his money pay a share of the costs, while the man who by his negligence was made the defendant should be made to bear them.

Another case in which the expense is too heavy is that which provides for the attorney who has an action for \$200 to pay as much as \$100 to a man who has a case of \$30,000. To his mind this was simply absurd.

Chose in Action.

Section 49, providing for chose in action, was drafted and inserted in direct disregard for the special act in the consolidated ordinances making provision for the treating of all cases alike. Which of the acts would chose in action be affected by, he asked? The clause was borrowed in toto from the Ontario practice with regard to the present law of Saskatchewan. This might be all right for draughtmen from the eastern provinces to bring the laws up from there and insert them in off-hand fashion, but who would be familiar with the law? The attorney general said, but who would determine the difference between these actions? It was evidently the purpose to make doubtful where there was heretofore no doubt.

Court of Appeal.

The fault Mr. Brown had to find with the court of appeal was that it consisted of only four judges, for the judge whose decision was appealed against could not sit on the case. If, therefore, as is often the case, the court divided two for and two against, the appeal, which was unfair and unsatisfactory, it should be made that a majority of the court would rule in this instance.

MR. LANGLEY.

George Langley (Redberry) spoke as a lay member of the House and in a witty deliverance warned his fellow lay members against allowing lawyers to fix the act for themselves, and providing for the law's delays which were exasperating. Upon the bill itself he argued that the man who was foolish enough to give credit should be made pay the costs for action to secure return for his goods, and in this respect he disagreed with the member for Souris.

LEADER OF OPPOSITION.

Mr. Haultain said all were agreed on the principle of the bill—that provincial courts should be established, although there would be doubtless a difference of opinion as to the way in which the system should be worked out. The proposition he suggested, although he had little hope that the government would accept the suggestion, was the Manitoba system minus the county courts. He thought there should be a high court consisting of seven judges and an appellate court consisting of three judges. The appeal court should be resident at the capital and devote its whole time to the consideration of appeals, while the high court could well handle the work of the country. This would insure greater impartiality in the hearing of appeals, for

or, which was looked after in another act.

Intricate Procedure.

The procedure in the district court was to be the same as in the supreme court, and he stated the object of that was to simplify the mode of procedure, should be far more simple in the district court than in the supreme court, thus doing away with the technical arguments and the technical points which at present forced every man with even a small case to appeal to a lawyer for assistance.

MR. LAMONT REPLIES.

Mr. Lamont in closing the debate, said he had had under consideration the suggestions of Mr. Haultain and had come to the conclusion that while such a system would do the work at the present time the province was going to go ahead. In five or ten years the province would have a population of a million people, and the time was rapidly approaching when the eight large judicial districts of the present day would constitute 30 or 40 districts, and for many districts judges would be employed.

In regard to the criticism that the House had not the power to make rules of procedure, he expressed a willingness to accept a clause giving the legislature power to override the decision of the judges in regard to procedure if such a step became necessary, although he had sufficient confidence in the integrity of the judges to believe that no such action would be necessary. He also expressed the opinion that the clause regarding choice in action should go in even if it did override some other statutes to a certain extent.

In regard to appeals, he would say that they would nearly all come from the district courts, and would invariably be taken direct from that court to the court on appeal.

The motion for a second reading of the bill was put and carried and the House adjourned at 6.00.

# GOVERNMENT RESORTS TO DIRECT TAXATION

## Having Given Away Our Public Lands the Scott Rancher Must Pay a Cent an Acre Annually—Cities, Towns and Villages Exempted

THURSDAY, FEB. 28.

The consideration of Mr. Calder's long resolution for the supplementing of the revenues of the crown for educational purposes occupied the attention of the House throughout the two sittings today. Mr. Calder introduced the resolution and explained the purpose of the bill which is to follow it, after which the debate was engaged in by nearly all the members of the House, and the legislators went into committee of the whole to consider the details of the proposition.

Business of the Day.

Mr. Stewart for the committee on standing orders reported in favor of receiving the petition of Land and others for the incorporation of Lang and others for the incorporation of the Yorkton Elks' club.

Mr. Haultain gave notice that on Monday he will ask for a return showing:

1. The bank or banks in which the public revenue of the province is kept out of the province of Saskatchewan.

The terms upon which the banking is done.

The reason for the transferring of the account from the bank of Montreal.

Mr. Brown gave notice that on Monday he will move the following resolution: That it is advisable that the government provide a bounty for the destruction of wolves and coyotes within the limit of the province.

And that practical and convenient regulations be made for the proof of such destruction and the payment of such bounty.

Lemburg Society.

Mr. Elliott asked the following questions:

1. Has the government received an application in form A provided for in section 6 of the Agricultural Societies Act praying for the organization of an agricultural society at Lemburg?

2. What action has the government taken in regard to it?

3. Is it the intention of the commissioner of agriculture to declare the subscribers to the said petition to be organized into the Lemburg agricultural society?

4. Why was this declaration not made last year?

First Readings.

The following bills were given first readings:

Mr. Lamont—A bill respecting the devolution of estates; a bill respecting the property of married women; a bill respecting the form and interpretation of statutes, and a bill respecting witnesses and evidence.

Mr. Calder's bill respecting the organization and maintenance of secondary educational institutions.

Mr. Motherwell's Amwers.

Mr. Motherwell in answer to Mr. Elliott's questions, gave the following answers:

1. Yes.

2. The Government, after considering very carefully the application, decided that it would not be in the public interest, nor in the interest of agricultural societies already established. It would very largely overlap work of a recently organized society.

3. Not at present.

4. For the reason given in answer to question No. 3.

Mr. Calder announced a message from the Governor and supplementary estimates were distributed as follows:

Further amount required for the general expenses of the office of the

executive council and the Government printer \$1,250.

To increase the salary of the deputy commissioner of agriculture and after Sept. 10, 1906 to \$3,500.

To increase the salary of the deputy commissioner of agriculture to \$2,400 per annum.

Further amount required for the general expenses of the agricultural department \$3,500.

Further amount required for the general expenses of the judicial department \$500.

To provide for the payment of grants to the undermentioned agricultural societies to reimburse them for amounts paid out in prizes in connection with the following: Carrot River, Ft. Qu'Appelle, Sintaluta, Redberry, Battle River \$700.

On motion of Mr. Calder the estimates were referred to the committee of supply.

The Resolution.

Mr. Calder, in moving that the House go into committee of the whole on his resolutions, made an appeal for unanimity on the question. There might be differences of opinion in regard to details, he said, but on the main principle of the bill he was sure there could be no two minds. Even in case of differences of details, he thought there could be found a common ground on which to stand.

It would appear from the opening paragraph of the resolution that the government was on the verge of bankruptcy, but this was not the case he assured the House. Later on he would submit to the House a statement of the provincial finances, which would indicate that there was no need to direct taxation for general revenue needs. The resolution was for the purpose of levying a general tax on property within the province for the securing of a fund necessary for the maintenance of educational institutions.

There is in the province at present a surplus of public lands which is not at present being used to the advantage of the province, and it was the duty of the House to see that all paid for the education of the youth of the land.

The proposition is to levy a tax of one cent an acre on all land available with the exception of that included in town and village school districts. Personally he should have liked to see these included, but he saw difficulties in the way because of the method of assessment in towns and villages. The money collected was to be put into a special fund, and in cases where the tax is not collected within the year the discrepancy is to be made up out of the general revenue, to be returned when the taxes come in.

The 38,000,000 acres should yield a revenue of \$380,000, the cost of collecting which at 1 per cent will amount to \$8,250. This would leave \$371,750 to be devoted to the purpose of the fund. The first place five per cent is to be set aside for the maintenance of an agricultural college, and a like sum for a university, making a total for the two of \$743,500. The balance of \$300,000 is to go to a secondary education, or high schools. At present under the schedules of grants and with the high schools existing only some \$9,000 a year would be required, and the balance would revert to the rural school fund making a total for such class of schools of \$288,000.

The final balance for rural schools would be \$288,990. Of this the 10,000,000 acres in rural school dis-

tricts would contribute \$100,000 so they would be getting back their own money with \$188,990 in addition.

Mr. Haultain's Views.

Mr. Haultain said that if the general purpose of the resolution was to levy a general tax on all lands in the country, he could agree with the principle, but the minister had numbered like a ship touching at numerous pleasant ports, but which does not arrive at any place in particular after a long and tempestuous voyage. The resolution seemed to him to be approaching the new anchor with a tax before he has any opportunity to reap the advantages accruing from the fund. At present the grants to the ordinary schools were the most liberal in the world, and these met out of the general resources of the province, and as a result are directly or indirectly contributed out of the pockets of the people. But the whole people of the province are benefitted by the education of the children, and therefore it was but right that they should contribute to the general maintenance of the school system. What seemed to him to be the weak point was that school districts are made to contribute, and the money is to be paid back. Would it not be as well to exempt the school district from the tax altogether, and thus save a great machinery necessary for the collection of taxes on the 10,000,000 acres of land. The cutting out of this kind of tax would materially simplify the procedure and would avoid complications and misunderstandings, and would make the tax more popular with the people.

He would leave the discussion of the details to the committee stages of the bill and the resolution.

Ranchers Object.

Mr. Wylie (Maple Creek) made a strenuous objection to the including of ranchers' leased land in the taxable property, as he said, it would have the effect of killing the ranching industry of the province. At present the ranchers must pay two cents an acre for their lease from the Dominion government, and a tax of a cent and a quarter to the local improvement district. With the addition of this tax the holding of leases by the ranchers would be prohibitive, and the men on the range would suffer as a result.

Ranchers Must Go.

Mr. Langley supported the resolution because he believed it to be the right thing. He said the ranchers were pushed out of the province anyway and the tax would only hasten the day when they would be relics of the past. He favored the confronting of new settlers with a tax as he believed it would have the effect of organizing more schools in the province.

Mr. Brown Speaks.

Mr. Brown agreed with the leader of the Opposition that the taxing of the rural school lands was useless, as it would cause endless confusions and complications. He thought the principle unwise, unnecessary and tended to the making of trouble for the system. The provision would prove unpopular with the farmers of the country.

Suits Sheppard.

Mr. Sheppard said the resolution suited with his district, of Moose Jaw, and would prove the most popular legislation of the session.

Suggests Change.

Mr. Gillis suggested that if school districts were to be taxed at all, let town and village districts be included as well. However, it was introducing the system of direct taxation and he could not agree with that at all.

Member for Humboldt.

Mr. Neely thought the members of the Opposition were laboring under a misapprehension, and he put them right by pointing out that country pupils would have free tuition in the high schools.

Mr. Sanderson's View.

Mr. Sanderson said his district was a village school running out into the country, and although it was essentially a rural school it would not benefit from the tax. He wanted to contribute and reap the reward.

Echoes of the Past.

Mr. Ellis said he remembered quite well that at the last session the minister of education had declared the revenues of the province to be quite sufficient for any purpose for many years, and yet he found at the second session the hon. gentleman submitting a scheme for direct taxation upon the farmers of the province, and while certain that the principles involved in the resolution might be sound, the scheme as proposed struck him as being in other respects unfair and unreasonable. He did not believe in a scheme for direct taxation that does not bear upon all alike. This resolution provides for a tax on the agricultural people, while the people of the towns, villages and cities who would receive greater benefit from the educational institutions were exempt.

Close of Debate.

Mr. Calder closed the debate by pointing out the difficulties in the way of including towns and villages, on account of the various different methods of taxing property in the different towns of the province. These difficulties, however, would not prove insurmountable, and next session it might be possible to make a change. Twenty per cent of the land in the country was held by the speculator, and the resolution would have the effect of getting a ter these men for the support of the educational institutions. It was proposed he said, in the small local improvement districts to collect the taxes through the secretary treasurer, but in the case of large districts the government would make the collections by the department of public works.

The motion was then put and carried, and the House then went into committee of the whole on the resolution.

Mr. Haultain in committee moved an amendment to exempt rural

schools as well as those of towns and villages, but his motion was lost.

The committee rose, reported progress and asked leave to sit again.

Grain Situation.

Mr. Langley, on a motion to adjourn, drew the attention of the Government to the condition of the grain in the province and to the loss which would be incurred should there be a sudden thaw.

Mr. Motherwell said the Government was bringing the situation to the attention of the railways and the Dominion Government.

Second Reading.

Mr. Calder moved the second reading of the bill respecting the treasury department and the auditing of public accounts. He said some minor changes were being made in the method of keeping the books as the result of recommendations made by an expert engaged for the purpose.

The bill was read a second time and ordered for the consideration of the committee of the whole.

Committee of the Whole.

In committee of the whole, the legal members considered the new supreme courts act and progress was reported on the bill.

The House adjourned at 10.45.

FRIDAY, MARCH 1.

Private members had a field day at the legislative assembly today, and they took advantage by asking many questions and returns from the Government benches.

Mr. presented a petition for the incorporation of the Saskatchewan Club of Prince Albert.

Mr. Stewart, for the committee on standing orders and private bills reported in favor of the petition of the Yorkton club, and

Mr. Garry in accordance with the report moved the first reading of the bill.

Dr. Elliott gave notice that on day next he will move the following resolution: "That in the opinion of this House it is desirable that a lands titles office should be established in each of the judicial districts as outlined by the districts courts act."

The announcement of the resolution was greeted with loud applause.

Mr. Elliott gave notice that on Monday he will ask for a return showing all correspondence since Jan. 1, 1905, between the Government and all persons or persons whatsoever regarding the improvement and grading of the road leading directly south of Sintaluta.

Dr. Elliott also gave notice that on Tuesday he will ask for a return showing all correspondence between the government and any person or persons whatsoever regarding the organization of agricultural societies at Lemburg and Abernethy.

Haultain's Questions.

Mr. Haultain gave notice that on Monday he will ask for an order showing the number of persons employed temporarily in the service of the departments whose salary would not show in the estimates last year, and the amount of salary to each, the changes in the service by resignations or retirement; the appointments to the service and the salary of each.

Public Libraries.

Mr. Brown asked the number of public libraries established in the province under the act passed last session, and Mr. Calder replied there were none. Mr. Brown accordingly received permission to introduce a bill to amend the public libraries act, and it was read for the first time.

Mr. Calder secured the first reading of the bill to incorporate the university of Saskatchewan, and

Mr. Wylie asked the government a series of questions in regard to the collection of taxes in local improvement districts, and Mr. Mother