

Canada Law Journal.

VOL. XL.

MARCH 15, 1904

NO. 6.

Mr. Lyman P. Duff, K.C., of Victoria, of the firm of Bodwell & Duff, has been appointed to the Supreme Court of British Columbia in the room of Mr. Justice Walkem, retired. This appointment is one of the very best that has been made by the present Government. Mr. Duff is a learned lawyer, has a great reputation as a Counsel, is a man of wide views, is free from fads, and has a mind cast in a judicial mould. The appointment is none the less welcome and to be appreciated in that Mr. Duff never was a politician, but has attained his high position at the Bar by force of character, brains, industry, and rectitude. He was born in Toronto, where his father, a retired Methodist Minister, still lives. Mr. Justice Duff is a graduate of Toronto University.

The care that is necessary in the drafting of statutes, as well as the want of such care, occasionally evinced, was illustrated recently in connection with an amendment to the Municipal Act, in reference to the newly constituted Board of Control in the city of Toronto. This Board was first created in 1896. Special legislation in reference thereto, so far as the city of Toronto was concerned, was enacted in 1903. The question arose as to whether a County Judge had, under the provisions of the Municipal Act, jurisdiction to try in a summary way the validity of a Toronto controller's election, in the same manner as he would have had the right in the case of a mayor or alderman. The County Judge held that he had such jurisdiction; but Mr. Justice Teetzel, on appeal, came to the contrary conclusion, holding that the words used in the statute fail to bring a controller in the city of Toronto within the summary trial provisions. Both judges were agreed as to what was the intention of the legislature; but the appellate judge emphasized the correct legal proposition that this intention must be ascertained by the words used—and that it was not competent for the court to extend them; in other words, that the court must interpret and not legislate, and that in this case the words used were insufficient.