

Small Debtors in the North-West.

LEGISLATION affecting the recovery of debts in the North-West Territories has always been in favour of the debtor. The exemptions from seizure, under an execution, have ever been numerous, and, lately, ordinances have issued from the Legislature at Regina greatly extending the hitherto existing privileges. A farmer on the prairie has now secured to him, free from molestation by the sheriff, quite a number of cattle, all necessary implements, vehicles, etc., and some things that many persons might not consider necessities; a sufficient number of horses for farm work, enough grain for seed, enough provender for the live stock allowed, virtually the whole of his household effects and many other things. All these can be lost to a man only under a "Bill of sale by way of mortgage." Indeed, it is not too much to say that in many cases a bankrupt farmer may find himself better off at the end of his bankruptcy than he was when he started business on the prairie. "Pity the poor debtor" has been the prudent and merciful dictum acted upon, and Jeremy Bentham's heart would have leapt with joy had he lived to see this great stride towards the realization of his ideal, that there should be no laws whatever for the recovery of debt.

While, however, so much has been done to protect the debtor who owes a great deal, nothing whatever has been done, or is talked of being done, to relieve the debtor who owes very little. The small debtor is sorely oppressed. I have sojourned in many countries in both hemispheres, but nowhere have I found small debtors so terribly persecuted as in the North-West Territories of Canada. The reason of this is, primarily, that there is one court only in which debts can be recovered, and that is the Supreme Court. It requires all the machinery and the expensive paraphernalia of the Supreme Court to recover a debt of five dollars. This is like employing a Nasmyth hammer to crack a nut. I know a man who was recently sued for \$4.50, which he paid on presentation of the summons. No lawyer was in the case so that the only costs were for the summons and its service, yet he had to pay \$14. Two of my neighbours, a short time ago, were each recently sued for \$7. They allowed judgment to go by default, and when the sheriff waited upon them to levy they found that each of the debts had mounted up to \$22. Under this system a man who owes \$20 or \$30 may suddenly find his stock seized for a debt of \$100, which, at present auction "spot cash" prices, requires about \$400 worth of chattles to pay. Indeed, at some recent sales by the sheriff in Assiniboia, the disproportion between price and worth was much greater than that here indicated; and in a great number of cases the result is that there is nothing for the creditor. Both parties are interested in changing a system that is often the ruin of one of them without satisfying the other.

This is not as it should be. I am told that legal procedure in the North-West is copied from that of the Old Country. If this be so, it is an attempt to stretch the coat of a dwarf until it covers the back of a giant. The coat will never fit. In a thickly populated country a process server sets out daily with his pocket full of summonses, and serves a few scores every day at a cost to each suitor of about one shilling. In the North-West a single summons may be sent a hundred miles or more by rail, then forty, fifty, or sixty across the prairie in a rig, the fee allowed being ten cents a mile. It is quite common, therefore, for the cost of service alone to exceed the amount of the debt to be recovered; and if the action be a defended one, there is all this mileage to be compassed and paid for with every document that has to be served. Distance certainly does not lend enchantment to the view of the debtor on the prairie; though doubtless it does to that of the process-server, usually a member of the North-West Mounted Police.

If the North-West be anxious to copy the legal methods of other countries, let its legislators extend the operation so as to embrace some of the subsidiary courts. The terrible persecution permissible, and in actual practice, indicated in the preceding paragraph, could not obtain if there were such courts in the North-West as the County Court of England, or, better still, the Small Cause Court of India. Let a glance be given at the procedure in those courts, for, in both, it is alike in principle, though different in detail. It will then be seen that the recovery of small debts may be cheap and certain, which satisfies the credit-

or, and, not being oppressive, also satisfies the debtor. In the first place it is not necessary that there shall be personal service of an ordinary summons. This is effected through the post. I am not sure that the document is even "registered." The defendant is informed thereon that if he pay into court the amount claimed, plus the cost of the summons, he will avoid any further costs; while, if at the hearing (the date of which is on the summons) he admit the debt, then he saves half the hearing fee. Suppose, however, the defendant does not put in an appearance at the hearing in response to this summons. Is the verdict given against him? By no means. A second summons is then issued, and it must be served personally. At first sight this may seem like adding to the costs, but in practice such is not the case. Nearly every person obeys the first summons, and the second is only resorted to when, for some reason or other, the first one has not reached its destination; or those still fewer instances when an unscrupulous debtor, without means, disregards all processes whatever. There then is a method, cheap, certain and expeditious, that would be eminently suited to the North-West.

There is a feature, too, in the procedure of the County Court in England and the Small Cause Court in India that would be a boon to prairie debtors beyond all power of expression. I refer to the payment of a debt by instalments. At present if there be a judgment against a man for \$50 and he can raise only \$49.99 the sheriff may swoop down upon him like a vulture with all the disastrous results already indicated. Under the system here suggested, however, a debtor could appear in court, admit the debt, submit himself to examination as to his means, and the judge, according to the degree to which he is satisfied, makes an order for the payment of debt and costs in a certain number of monthly instalments. There are many men on the prairie who owe debts of, say \$50, who have not and could not easily obtain, the full amount, but who could, without undue suffering, discharge the liability at the rate of \$10 a month. This is a plan that carries with it its own recommendation. It would satisfy all but the most exacting creditors; and it would prevent those cruelly unjust persecutions that are so frequent and so disastrous throughout the fair territory beyond Manitoba.

There is another feature of the system of payment by instalments which, though not of the greatest importance, is yet worth mentioning. Law is not always justice, though it ought to be; and a judge has hereby an instrument by which he can deal lightly with unfortunate victims to technicalities. Commissioner Kerr, who presides over a subsidiary court in London, England, uses this power with effect on those shylocks or sharks who own the "loan offices" that infest the metropolis of the world. Some unfortunate wretch who may have borrowed, perhaps, £10 from one of these establishments, wakes up one fine day and finds himself by some *hocus-pocus* sued for £40 or £50. What Commissioner Kerr says to Shylock in such a case is virtually this: "This is a scandalous case of extortion, but you have the law on your side. I give you a verdict for the full amount with costs, and I order the defendant to pay it in instalments of sixpence a month." There are several such decisions of the merciful Commissioner, under which the judgment will not be satisfied until the "crack of doom."

Law is everywhere expensive, but in no place is it so expensive as in the North-West of Canada. A peculiar point about the matter, too, is that whereas in other countries law is expensive because of the lawyers, on the prairie it is not so. There is nothing extortionate about the lawyers' fees in the North-West. Indeed, compared with the retainers, the refreshers, the twelve-and-a-half per cent. to barristers, clerks, etc., etc., that obtain in England, the barristers' fees in the North-West are insignificant. The expenses arise from forcing a system adapted to short distances and crowded cities, upon a sparsely populated prairie where the distances are very great. Not only, too, is law expensive, but it is not certain. The only certainty is that the poor debtor will be crushed, and the "great uncertainty" is as to whether or not, even then, the creditor will recover his money. To obviate this state of things I venture to suggest to the Legislative Assembly of the North-West Territories that enormous benefits to the people of the prairie would follow the establishment of a Small Cause Court under which the post office would be the principal process-server, and a salient feature in whose procedure would be the collection of