PROCEEDINGS IN THE LEGISLATURE

SASKATCHEWAN'S NEW JUDICIAL SYSTEM OUTLINED TO HOUSE

ATTORNEY GENERAL LAMONT GIVES A CONCISE EXPOSITION OF THE PROPOSED NEW LEGISLATION—PROVIDES FOR FIVE SUPREME COURT AND EIGHT DISTRICT COURT JUDGES—OPPOSITION CRITICISM VERY MILD.

PRESS GALLERY, Feb. 27.

The second reading of the bill to establish a supreme court in and for the province of Saskatchewan was moved in the Legislature today by Attorney General Lamont, and after a short debate, which was participated in by Messrs. Lamont and Langley on the Government side, and Mr. Haultain and Mr. Brown for the Opposition, the principle of the bill was indorsed and it was committed to committee.

University of Saskatchewan.

One of the most interesting items in the routine proceedings at the commencement of the sitting was a notice by Mr. Calder that on Friday next he would move for leave to introduce a bill respecting the establishment and incorporation of a university for the Province of Saskatchewan.

Mr. Brown gave notice that on the same day he would move for leave to introduce a bill to amend "The Public Libraries Act"; also a bill respecting "The Methodist Church."

Opposition "Wants to Know."

Mr. Haultain gave notice that he would move for a return showing all correspondence between the Government of the province and any member thereof, and the Government of Canada or any member thereof, concerning the memorial of the House adopted on May 22, 1906, respecting a reference to the courts respecting the constitutionality of the Saskatchewan Act.

Mr. Wylie gave notice that he would move for a return showing:

(1) The amount of money to the credit of each large local improvement district on January 1, 1906.

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

(3) The amount of money expended in each district since that date.

(4) The amount of taxes now due and not collected in such districts.

(5) The balances at credit of each district at this date.

Mr. Gillis gave notice that he would move for a return showing:

(1) The number of applications that have been received for the establishment of public and separate schools in the province since January 1, 1906.

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

Mr. Ellis will ask for a return showing the names of all persons appointed to appraise losses occasioned by hail in the Electoral District of Moosomin during the year 1906.

The names of the applicants for compensation in respect of whose claims the above appraisers were appointed.

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

Mr. Calder introduced his bill to make provision for supplementing the revenues of the Crown, which was read a first time.

Mr. Haultain moved for a return showing all documents of any kind in any way relating to the removal of Thomas J. Agnew from the Commission of Peace.

Mr. Lamont—Agreed.

The Supreme Court.

In moving the second reading of the bill to establish the supreme court, Mr. Lamont said there would be no necessity for him to do more than outline the judicial system which they propose to establish. The system they were establishing was not all included in the Supreme Court Act before the House, but included also the District Courts Act. He proposed to deal with the two bills together.

Mr. Haultain—Hear, hear!

Mr. Lamont—The judicial system now in force in the province is that established by the old North-West Territories and consists of a single court. By the old territorial ordinance the territory of the present province was divided into three districts, with resident judges at Prince Albert, Regina and Moosomin. Recently the Dominion had appointed a fourth judge to reside at Moose Jaw. These judges were all they had to administer justice in the province. They held court at their places of residence as well as at some other points. Their jurisdiction was both civil and criminal and ranged from a $2 grocery account up to matters involving the largest and most important constitutional questions. These all came up before the one judge. Then there was an appeal court, consisting of all the supreme court judges of Saskatchewan and Alberta sitting en banc. This old system was satisfactory in the past, but it was defective to meet present-day conditions. It was not possible for the judges to hold court at more than the number of places they were holding them at now. But the country was settling up rapidly, population was pouring in and villages and towns, and even cities, were springing into existence, and it was impossible that one judge could minister to the needs of one-quarter of the people spread over a wide area.

Mr. Lamont cited instances along the Canadian Northern Line to Prince Albert and the C.N.R. main line, where such points as Melfort, Kamsack, Humboldt, Vonda and Kenora had not been able to have court held, and the people were compelled to go to Prince Albert and Saskatoon. He said that in future the courts must go to the people, and not compel people to come to the courts. The judicial system required was one that would provide for an inexpensive and convenient method for people to have their legal business transacted.

Appeal Court at Regina.

Another feature had to do with the appeal court. All would agree that they should have a strong appeal court, and to have this it was necessary that all the judges should live at the same place, so they could confer together and discuss the questions which came before them in appeal and upon which they were to give judgment. He had heard the judges complain about the disadvantage they labored under in this respect at present. The universal opinion in the older provinces was that to have a strong appeal court the judges must all reside at the same place. Therefore in the establishment of the new judicial system it was necessary to provide on the one hand that the judges who sit in appeal shall reside at the same place, and that judges can attend at various places throughout the province in order to hold court, so that the people can, without great expense and inconvenience to themselves have their cases tried. At the present time in small debt cases it was very difficult, owing to the expense, to bring suit unless the amount was for $100 or more. As a result small debt cases for small amounts were very rarely brought.

Under the provisions of the B.N.A. Act the constitution of the provincial courts of justice was a matter wholly within the jurisdiction of the province. They could create what courts they considered necessary. It was necessary to provide for the two features he had mentioned and the legislation proposed by the Government endeavored to meet these conditions. In the first place, they abolished the present supreme court of the Territories and established not one court, but two. They provided for the establishment of "The Supreme Court of Saskatchewan," to consist of a chief justice and four other judges, all of whom would reside at the capital. These five judges would form the appellate court for the province. This would meet one of the difficulties he had noted.

The District Courts.

To meet the other difficulty they proposed in the District Courts Act to divide the province into eight judicial districts as follows: Cannington, Moosomin, Yorkton, Regina, Moose Jaw, Saskatoon, Battleford and Prince Albert. They would ask the Dominion Government to appoint a judge for each of these districts. These courts would be of inferior jurisdiction, but would try all cases where the amount involved did not exceed $300. In suits where the amount involved was larger than this the case would be tried by the supreme court judges, who would go on circuit through the province.

This system he believed would not only meet the requirements of the present time, but would be elastic enough to meet the rapidly changing conditions of the province in the future. Some of the districts as proposed at the present time were rather large, but as population increased these would be reduced in size by the alteration of districts and the creation of new ones as they were taking power in the act to divide the districts when necessary.

Thus under the new system they would have eight district and five supreme court judges to do the work which four judges were doing, or endeavoring to do at the present time. The district judges would go on circuit, and as they would have only their own districts they would be able to hold court at all necessary points every two or three months, and it had been suggested that in regard to the larger places in each district court should be held every month.

Local Masters.

There was another point to which he would refer. Members of the legal profession had been greatly hampered in the past in connection with work in chambers. All this work had to be done before one of the four judges. Under the new system the district court judges would be ex-officio local masters of the supreme court and the great bulk of the business could be performed in each district by the district judges.

Mr. Lamont went on to explain that section 7, which provides the qualifications of judges, had been inqualifications of judges, had been intion in the district courts bill, in order to obtain an expression of opinion from the House on the matter. When these clauses were reached in committee he would ask that they be taken out and placed in a separate bill. The Dominion Government, which appointed all the judges, had on some occasions in the past contended that the provinces had no right to lay down any restrictions upon their appointments. He did not believe the present Minister of Justice at Ottawa took that position, but for fear that they might take exception to the clauses and hold up the legislation in its entirety he would ask that they be taken out.

Referring to section 59 of the bill Mr. Lamont said it provided for trial with or without jury in certain cases. For his own part he was of the opinion that trial by jury in civil cases was not very desirable (Mr. Haultain—Hear, hear), but the view seemed to be pretty generally entertained that it should be provided, and in deference to that opinion the clause has been inserted.

Mr. Lamont in conclusion drew attention to Section 61 which provides that the rules of court now in force shall remain in force until altered or annulled, and that the judges of the Supreme Court shall have power to alter, amend and make the rules.

J. T. Brown Criticises.

J. T. Brown (Souris) followed on behalf of the Opposition in criticism of the bill. The object of such bills as that under consideration was to have as simple, inexpensive, safe and convenient a judicial system for the people as possible. The convenience of the members of the bar or even of the judges was secondary to the convenience of the people (hear, hear), and while the Government in preparing this legislation had no doubt kept that object in view he greatly feared that when the bill were looked into carefully it would be found that they were not perfect in that respect.

Mr. Brown went on to declare himself in favor of the system which had proved so successful in Quebec and believed instead of creating courts of inferior and superior jurisdiction, it would be the part of wisdom to increase the number of superior court judges throughout the province and provide for a special appellate court located at the capital. However, he was not prepared to say that the system proposed by the Government was wrong but he believed the other system would be better, less expensive and more convenient.

He must, however, criticise very strongly the policy of the Government from the point of view that it tended to centralise rather than decentralise the administration of justice. While the remarks of the Attorney General as to the necessity of the appeal judges residing at the capital might have force under existing conditions when there were only four judges, they would not apply under the changed conditions brought about by the proposed Act. Under the proposed change it would be found that the cream of the legal practice in the province would be brought to Regina and as a result lawyers ambitious to rise in their profession would be compelled to move here or else go elsewhere outside of the province. That was, however, only the consideration of the bar. From the standpoint of the public, it would be found that it would lead to inconvenience and increased expense. It was alright to say that the district judges would be loca masters but there was no guarantee in the bill that they would do the work. It might all come to Regina.

He took strong objection also to the legislature delegating to the judges the right to fix the rules of procedure. With all due respect to the bench he thought that this matter could be more safely left with the House itself.

He largely agreed with the Attorney General in regard to the trial of civil cases by jury but he objected to the proposed clause which reversed the law as it stood today.

He thought the costs of trial which were under control of the Government should be reasonable.

Mr. Lamont—Hear, hear.

Mr. Brown, however, would favor an increase in regard to certain matters. It was absolutely absurd that a man who had a claim for $201 should be put to the same expense as the man with a claim of $20,000. There was room for improvement here.

At some length he dwelt on the fact that the court of appeal would only consist of four judges,—the judge whose decision was appealed against not sitting on the appeal,—and there was the possibility of the court dividing evenly with the result that the appeal would be lost. He contended there should always be a clear majority on any appeal.

Mr. Langley.

Mr. Langley (Redberry) spoke briefly as a layman. He thought it would be well for the lay Members of the House to keep a sharp eye on the legal lights. He was glad the House was not overloaded with lawyers. Promptitude in having cases disposed of was a great consideration. The people also wanted an inexpensive system.

Answering Mr. Brown's objection that only four judges would sit in appeal, Mr. Langley pointed out that if they divided evenly there would then be three to two as the trial judge had already given his decision.

He combated the arguments of the previous speakers in regard to civil cases being tried by jury. He believed the judges eliminated sentiment too entirely from their judgments and in the past the jury system in civil as well as criminal cases had proved its value.

In conclusion he urged the legal men in the House to eliminate as much Latin from the bills as possible and stick to good plain English.

Mr. Haultain.

The leader of the Opposition spoke briefly. He believed a better system than that proposed would be along the lines suggested by Mr. Brown. He suggested seven superior court judges and an appellate court of three.

He did not think the jurisdiction of the District Courts went far enough in one direction and went too far in another.

In reply to Mr. Langley he pointed out that while the trial judge would have already given his decision on any case which was under appeal, yet appeals were usually taken on some legal point which might not have been fully presented at the trial.

He also thought the procedure in the District Courts should be made as simple as possible and simpler than that in the Supreme Court.

Mr. Lamont Concludes.

Speaking briefly in concluding the debate Mr. Lamont pointed out that the system proposed by the Opposition was one he had at first favored himself but on looking into the matter more closely he found it would not be the best. It might be satisfactory for a year or two, but they were not legislating merely for the present. The object was to give the people a cheap and convenient method of justice. The seven judges suggested by the Opposition to go on circuit could do this at the present time, and if our population was not so rapidly increasing he would be prepared to say it would be a satisfactory system, but when they considered the extent, the area of the province and that within five or ten years there would probably be a population of one million people here, they would see that it would be impossible to have sufficient high court judges to serve them The time was rapidly approaching when instead of having eight district court judges they would have more like thirty or forty.

Replying to the criticism as to the centralisation of the judicial system Mr. Lamont pointed out that while they were centralising the judges of the Supreme Court they were decentralising the district court judges. One was more than offset by the other. Instead of four judges scattered through the province there would be eight away from the centre.

In reply to a question Mr. Lamont said the present small debt procedure was not done away with under the new system.

He contended that the judges before whom the cases came were the proper body to determine what were the most necessary and best rules of procedure. He believed they could be trusted to safeguard the interests of the people. However, he would not object to a clause reserving to the House the right to override any rules the judges might frame.

In reply to a question from Mr. Brown the Attorney General stated that appeals from a District Court judge would be direct to the court enbanc and not to one of the Supreme Court judges.

He said further that the bill provided for the work in various districts to be done by the local masters and he did not anticipate anything but that the bulk of the work would be so done.

The bill was then read a second time and the House adjourned at 5.30 p.m

$330,000 MORE TO BE RAISED FOR EDUCATION

INTERESTING DEBATE ON MR. CALDER'S RESOLUTION TO SUPPLEMENT THE REVENUES OF THE PROVINCE FOR EDUCATIONAI PURPOSES—LANDS HELD BY SPECULATORS MUST PAY SHARE OF BURDEN OF TAXATION.

PRESS GALLERY, Feb. 28.

Night sittings of the Legislature were commenced today, the members all being desirous of expediting business as much as possible, so that it will be disposed of before spring opens. Mr. Calder's resolution to provide for supplementing the revenues of the Crown was debated at length and passed its second reading. Later in committee the Opposition offered its first amendment this session, which was rejected.

The Supreme Court Act was taken up in committee of the whole and good progress made with it, the House adjourning shortly before 11 o'clock.

Routine Proceedings.

Mr. Stewart, for the Committee on Standing Orders, reported favorably on the petition of Geo. Lang and twenty others praying for the incorporation of the Yorkton Club, and it was accordingly received.

Mr. Haultain gave notice that on Monday he would move for a return showing: (1) The bank or banks with which the public revenue is kept. (2) The terms and conditions upon which the Government account is kept with the said bank or banks. (3) The terms and conditions upon which the Government account was kept with the Bank of Montreal.

Wants Bounty on Wolves.

Mr. Brown gave notice that on Monday he would move that it is desirable that the Government provide a bounty for the destruction of wolves and coyotes within the limits of the province; and that practical and convenient regulations be made for the proof of such destruction and the payment of such bounty.

A message was received from the Lieutenant Governor transmitting supplementary estimates for the fourteen months ending Feb. 28, to an amount of $6,230. It was formally referred to committee.

Lemberg Agricultural 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 organisation of an Agricultural Society at Lemberg?

(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 organised into the "Lemberg Agricultural Society"?

(4) Why was the declaration not made last year?

Mr. Motherwell replied to the various questions as follows:

(1) Yes.

(2) The department, after considering very carefully the application for the organisation of an agricultural society at Lemberg, decided it was not in the general interests nor in the interests of existing agricultural societies to establish a new one at a point where the work would be largely an overlapping of similar work already undertaken by a recently organised society.

(3) No, not at the present time.

(4) For the reasons given in reply to Question No. 2.

New Bills Introduced.

Bills were introduced by Mr. Lamont and received first readings as follows:

Respecting the Devolution of Estates; respecting the property of Married Women; respecting the Form and Interpretation of Statutes; respecting Witnesses and Evidence.

By Mr. Calder—Respecting the organisation and maintenance of Secondary Educational Institutions.

More Money for Education.

Mr. Calder, in moving the House into committee to consider the resolution to provide for supplementing the revenues of the Crown for educational purposes, said that the subject embraced in it was even more important than that of the judicial system of the province, which had engaged the attention of the House at its previous sitting. He hoped the House would approach the subject in the same broad spirit with which it had dealt with the matter under discussion the day before.

Taking up the resolution, which has already been published in full in The Morning Leader, Mr. Calder said that it might appear from the opening paragraph that the Government was hard up. This was not the case. The purpose of the bill, which would be framed on the resolution, was to levy a general tax on property in the province in order to raise funds for the educational institutions of the province. The principle of the resolution was already partially agreed to in the old Territorial ordinance. It was now universally recognized that the education of the youth of the country was a state function, and that it was the duty of the state to provide all necessary means to enable the youth to be educated. It was therefore the duty of the Legislature to see that everything was done that could be done to foster the educational system of the province, especially the common schools.

Another point with which he believed the house would agree was to provide as far as was possible that all people should pay their fair proportion of the cost of education. This was not the case at the present time. At present there was an immense area of land not paying one dollar towards education. If it was their duty to provide educational facilities for the youth of the country, then it was their duty to make all property pay its fair share towards education.

Lands Which Are Assessable.

Referring to the quantity of land available for taxation, Mr. Calder said he had gone into it very carefully. He estimated that after deducting all Government and C.P.R. lands there were 33,000,000 acres of lands assessable for all purposes. Of this amount there were somewhere in the neighborhood of 10,000,000 acres now within organised school districts. This left something like 23,000,000 acres which were not contributing one dollar toward education. The main purpose of the resolution was to tax this land which was not now taxed in school districts.

Mr. Calder stated that when the municipal commission was appointed this year it was suggested to them that among other questions which they should take up at their sittings and discuss with the delegates appearing before them was this question of a general tax for education. The commission held something like twenty meetings throughout the province, and this question was taken up, and at every meeting there was a unanimous feeling that something should be done in this direction. So far as he could ascertain there was not a single objection taken to the principle involved in the resolution.

The Resolution.

Looking at the resolution itself, it would be noted that the first paragraph provides for a tax of one cent per acre upon all lands, with the exception of the lands within town and village school districts. The criticism might be made that the resolution did not go far enough. It might be contended that the principle involved should go so far as to tax all property within the state. He did not oppose this larger principle, but the town and village school districts were exempted because of the fact that a double system of assessment prevailed in the province. In town and village districts the assessment was based on valuation, while in rural districts it was based on acreage. While he was quite willing to agree that if it were possible, and he thought it could be worked out, but at the present time he was not prepared to go that far because of the practical difficulties in the way, the proper principle would be to tax all property. He would, however, point out later that these districts which were exempted did not get the benefits which accrued to the rural districts.

The second clause provided for the payment of 2½ per cent. to the proper small local improvement official for the collection of the taxes.

The third clause set apart the revenues received in a separate trust account, so that they did not fall into the general funds of the province.

The legislation which it was proposed to introduce being experimental in its nature, it might be found in the first year that some of the money might not come in, and the next clause made provision to make the deficiency up out of the general revenue of the province which would be replaced later when the money was collected.

How Money Is Distributed.

The next clause indicated how the revenues would be distributed. It was provided that they should be used exclusively for educational purposes as follows:

Five per cent. thereof for the establishment and maintenance of an agricultural college;

Five per cent. for the establishment and maintenance of the University of Saskatchewan;

Ten per cent. for the support of secondary educational institutions:

Eighty per cent. for the support of primary educational institutions.

In regard to the first two of these grants Mr. Calder said he hoped the House would pass a University Act this session and that the organisation of the university would be proceeded with as rapidly as possible. The Government did not propose, however, to bring down legislation this session to create an agricultural college but would probably do so at the ensuing session. He thought it only fair, however, that a portion of these funds, especially as they came from the rural districts, should be set aside for the purposes of establishing an agricultural college and a university.

The third grant might seem in some sense an unfair provision, but he might say that while this money is taken from the rural districts they were making provision that every high school and collegiate institute in the province should be open to all children from the rural portion of the whole country entirely free of all tuition and other fees. In view of

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