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Edmonton Bulletin.

EDMONTON BULLETIN, THURSDAY, FEBRUARY 7, 1917.

NUMBER 154.

LUMBER

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We have stocked up for the coming season in
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Dress goods in winter weight, in
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We also have a large stock of wool blankets and quilts. These are
 selling at last year's prices.

Act Introduced Creating High Court of Justice

Attorney-General Cross Introduces Act in Forceful Speech
 ---Provision for Cheap and Expeditious Litigation---
 Chief Justice, Four Puisne and Five Junior
 Judges for Alberta---Acceleration
 Clause of Mortgage Con-
 tracts Abolished

(Tuesday's Daily)
 Last night should be regarded as an historic night in the history of the Legislature of Alberta. The attorney general explained to the House the terms of the new High Court and District Courts Act. From the earliest time in the history of the Northwest the administration of justice has been executed by what were merely provisional courts, to be superseded in due time by the regularly constituted judicial machinery, and jurisdiction delegated to the provinces by the terms of the British North America Act. It is a far cry from the direct, single-handed administration of the laws of the land by the Hudson's Bay factor to the complex judicial system created by Attorney General Cross' bill instituting the High Court of Justice of the Province of Alberta. Though differing very widely in outward form both systems resemble each other in imposing a reverence for law and order that is the abiding glory of all nations who live under the British constitution. The first attorney general of Alberta took his place among the legislators of Canada, and whatever change or amendment in the original act shall, it shall always bear the impress of the hand that first fashioned it.



C. W. CROSS,
 Attorney General of Alberta.

The act is modelled after the High Court of England. The judges exercise and enjoy all the rights, privileges and immunities of the judges of Her Late Majesty's Superior Courts of law and equity, and all the associate courts of the High Court of Justice of England. The attorney general explained the bill at some length in a carefully arranged and forceful speech. In rising to address the House he was greeted with unstinted applause.

THE SPEECH.

Mr. Speaker:—
 In the act, known as the Alberta act, which came into force in Sept., 1905, constituting this province, a provision was made that the Legislature of the Province of Alberta might abolish the Supreme Court of the Northwest Territories, and a further revision was made whereby the Legislature of the Province of Alberta would have the right to constitute new courts.

Purpose of the Bill.

The purpose of the District Court Act, in conjunction with the High Court Act, is to establish in the Province of Alberta the judicial machinery which was contemplated in the original constitution of the Province, and as the formation of the two courts, which are provided for in these acts as a whole go to make up the judicial machinery in Alberta. I thought it advisable to address myself upon the introduction of the bill now before the House to the general question not only of the formation of District Courts, but of the High Court of Alberta, so that in this way the whole matter might be treated intelligently by the House.

Principle of Bill.

The Government have thought it well to introduce the District Court Act at the present time, because the principle involved in that bill is the distinguishing feature between the judicial system of this Province as it has existed up to the present time and that system which is contemplated by the District Court Act and by the High Court Act.

Details.

The details of the bill, sir, can be more conveniently and more easily discussed when we consider it in committee. Our business at the present time is with the principle of the

bill.
 As you are all aware, up to the present time there has been but one Court of Justice in the North-West Territories, known as the Supreme Court of the North-West Territories, and constituted as a court under the North-West Territories Act, the Act under which for a number of years the whole of the North-West Territories, including the present Provinces of Alberta and Saskatchewan, operated until the passing of the Act commonly known as the Autonomy Bills.

The Supreme Court of the North-West Territories has dealt and today deals with all manner of actions, be they large or be they small. An action for one dollar, an action for \$10, or an action for \$1,000, is brought today in the same Court. There is, however, one very slight distinction, and that is in connection with the scale of costs. In claims of \$100 or less a simpler procedure has been provided and the fees in cases of this class are adjusted upon a lower scale than in cases of actions involving more than this amount; also in actions ranging in amounts between \$100 and \$200 there is a lower scale of costs than in actions above that amount.

Owing to the large increase in population during the last three or four years, the territory now constituted as the Province of Alberta has been rapidly settling up, and as a result the time of the judges of the Supreme Court of the North-West Territories has been to a very large degree occupied in the trial of small debt cases. At the last sittings of the Supreme Court in the city of Edmonton considerable more than one-half of the cases on the docket were cases which in any other province in Canada would have been relegated to a court of inferior jurisdiction. As a result of this the judges of the Supreme Court of the North-West Territories are not only in the first instance overworked, but they are unable to devote a proper share of their time in the consideration of judgments in cases of great importance to the litigants. This disadvantage is felt very

keenly not only by the litigants and the judges themselves, but from a standpoint of public convenience a very much more serious state of affairs exists in consequence of the present state of the court system.

Present Small Debt System Defective.

The disadvantages to which I referred are the impracticability and sometimes impossibility of any person in the outlying districts of the Province and even in the more settled and thickly populated districts and along the lines of railway obtaining speedy justice in small debt cases. I am of the opinion that proper provision for the trial of small debt cases is the most important feature of a well organized judicial system. It is a matter of common knowledge in the Province of Alberta that a very great number of cases in which parties feel themselves aggrieved are never brought to trial, because the amount involved would not justify the beginning of an action at law which might have to be carried to a place some hundreds of miles distant from the place where the cause of action arose and where the litigants are residing. Every barrister in the Province of Alberta will agree with me when I say that barristers in this province during the last four or five years, have been in the habit of advising their clients not to bring small debt actions but rather to suffer an injustice than to run the risk of having to pay large costs.

Object of District Courts.

The principal object of establishing the District Courts in the Province is to inaugurate a system whereby the judges of that court will travel through their districts and hear the complaints of any persons who think themselves aggrieved, and give justice to such persons. It will be arranged that the judges make circuits of their districts every six weeks or two months, covering all the important points within such districts and hearing at the place where the dispute arises any causes brought before them for trial. At the present time it would be quite impossible for the judges of the Supreme Court, of the

North-West Territories to attempt to cover the smaller towns and villages in the Province and to bring justice to the doors of the people of the country, but under the District Court Act this plan will not only be feasible but will be eminently practicable, and will be put into force as soon as the judges of the courts are appointed by the Federal Government. At the present time the expenses of trying a small debt case sometimes hundreds of miles from where the dispute arose has almost invariably made the litigant deter from endeavoring to enforce collection of their claims, and the purpose of this judicial system should be to bring justice as near to the doors of the people of the province as possible, and make it as cheap, easy and quick to obtain as it is possible to make it.

Old and New System.

The primary difference between the old judicial system and the new one, as set forth in these acts, is to make it as easy, cheap and quick as possible to obtain speedy justice.

A Larger Judiciary Needed.

I have desire to refer particularly to the need in this province of a larger Judiciary than that which it has at the present time, and in this connection it may be of interest to you to know that upon the basis of population the Province of Alberta is entitled, as compared with the other provinces of Canada, to ten judges, and upon a basis of area, this province would be entitled to a very much larger number. It is quite clear to anyone who is intelligently informed as to the condition of affairs in the Province of Alberta, that it requires a larger number of judges to cover this province in an efficient way than perhaps in any other province, for the reason that the settlement in this province is very widely diffused. Settlers are taking up land in far distant places from the railways in the well grounded hope that before very long these places will be tapped by a railroad and thereby rendered just as accessible as any other part of the province. The result of this has been that small communities have grown up, and today are growing up all over the province, oftentimes long distances apart, and in order to serve a province so settled properly, it is perfectly clear that a larger judiciary in proportion to its population is required than in such a province, as for example, British Columbia, where the population is centralized to a great extent in the cities of Vancouver and Victoria, and in a number of smaller cities and towns immediately along the lines of railway.

It might be of interest to compare the number of judges in British Columbia with the number of judges which we are asking the Dominion Government to give us under the District and High Court Acts. In the year 1905 the population of British Columbia at the taking of the census was some 7,000 less than the present population of Alberta, and at that time there were in the Province of British Columbia five Supreme Court judges and ten County Court judges, making in all fifteen judges or one each to every 12,000 of a population.

Ten Judges for Alberta.

It is therefore quite clear that if this Legislature sees fit to adopt the bills submitted by the Government for the construction of the District Court of Alberta; which involves the appointment of five District Court judges, and also for the construction of the High Court of Alberta to be composed of five High Court judges, making in all ten judges, the request which is thereby made to the Federal Government to fill these offices is in view of the circumstances prevailing in the province amply warranted.

The design and object of the District Court Act, as I have said, is to make it easier, cheaper and simpler for a creditor to obtain redress against his debtor, or for two parties who have a dispute to have that dispute settled judicially.

Courts of Justice Exist for Two Purposes.

Courts of justice in any country exist for two purposes and their functions with regard to each of these purposes should always be kept separate and distinct. One of these purposes is to permit the enforcement of admitted claims or demands, and the other quite different function is to decide disputed claims or demands. I trust that such design will be realized in the Acts which are now before the House, and on the one hand make it easier and cheaper for one man, who has an undisputed claim speedily, and on the other hand, to give every facility to two or more persons who happen to be engaged in a dispute, which calls for judicial adjudication, to have the merits of

that dispute fully and completely laid before the court, and to have ample time and opportunity given for the presentation of each side of the facts and arguments given to sustain their respective contentions, as well as ample time and opportunity afforded the judges, who are called upon to decide such disputed cases, to come to a conclusion after due consideration of not only the facts of the case, but of all the law bearing thereon. This is the only way in which litigants will be satisfied after the decision is arrived at in any case in which they might be engaged, and it must be borne in mind that it is of just as much importance that these disputed cases, where there is a real and substantial question of debt, should be properly and carefully determined as it is in the other class of cases, namely, those in which no dispute arises, that every facility should be afforded to a speedy realization of the admitted claim of the creditor as against his debtor.

Perfection Not Claimed.

I do not claim for these Acts that they are by any means perfect, but I do say that they have been given most careful, and I hope sound consideration, and that whatever defects exist in them will be remedied as they appear from time to time.

District Courts—Amount Limited to \$400.00.

It is the design of the Act now before the House that there shall be a District Court in each judicial district of the province, with a jurisdiction limited to cases involving not more than \$400.00. You are all aware that since the formation of this Government we have established in the Province of Alberta five judicial districts where formerly there were three—beginning at the south there is the Lethbridge Judicial District, having its judicial centre at the city of Lethbridge. There is also the Judicial District of Macleod, the Judicial District of Calgary, the Judicial District of Wetaskiwin and the Judicial District of Edmonton. Now in every other province in Canada, save only in Saskatchewan, there exist two classes of courts, namely, a Superior and an inferior court. For example, in Ontario at the present time the jurisdiction given to the County Courts extends to cases involving \$500. In British Columbia, the jurisdiction of the County Courts is very much wider, but owing to the circumstances in this province, the Government having thought the matter out well, have come to the conclusion to not at the present time give the District Courts a larger jurisdiction than the sum of \$400.

The question of the limits of the jurisdiction of these District Courts has been a matter of very serious consideration by the Government. It has been suggested on the one hand that this limitation of \$400.00 is too small, and that here exists no reason why it should not be increased to the sum of \$800, corresponding with the jurisdiction exercised by the County Courts of Ontario to-day. On the other hand, it has been very strongly urged that the jurisdiction of \$400 is too large, and that it would be advisable to limit it to \$200 or \$300.

I may say that as this Province is at present constituted it would give the District Courts too much work in comparison with the work of the High Court to extend the jurisdiction to \$800. The difference between \$400 and \$800 would include a very large number of cases which would swing the balance of work too strongly in favor of the District Courts. I say this because I have made examination into the various cases tried at the different sittings of the Supreme Court of the North-West Territories, during the past year, and I find that this is the case.

I might also point out that it is only a short time ago that the jurisdiction of the County Courts in Ontario was \$400, and it has only been in very recent years that this jurisdiction has been extended to \$800 in very many cases. I have no doubt in my mind that when the settlement in the Province justifies it, it will be a wise provision to increase the jurisdiction of these District Courts, but for the present I think that the figure at which the Government has placed the jurisdiction of these Courts for all purposes, namely \$400, is the proper figure at which to place it.

District Courts Unique.

In one very important particular the District Courts in Alberta will be unique. They will be able to try all classes of cases of every nature, kind and description, so long only as the claim or demand for relief does not exceed this amount. In Ontario for instance, as in the other Provinces, there are certain very important ex-

Continued on Page Seven

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Butters

L. Donald and J. P. Harvey of Saskatchewan are at the King
 Watson and wife of Edmonton staying at the Metropole, Van-
 McPherson, M.P., for Stony will spend the week end at
 ous, building contractor at title, is stopping at the Imper-
 McDonald leaves today for a week holiday at her home in
 school, real estate agent, Regina visitor today. He is at the
 H. Milne of Mundare is spending days with friends here. She is
 W. H. Cushing of Calgary has quarters at the Cecil during
 Manuel spent a few days with all friends last week en route
 Norman Murray of Vermilion is in Edmonton today. He
 Garrett of Lamont is with friends today. She is re-
 McDonald arrived home from an extended visit with
 Austin of Calgary, manager of one of the International Har-
 Cushing, Vegreville's leading real dealer, along with Joe Ro-
 McLeod, who has been away for some time, is expected
 Cushing Bros., recom-
 B. C. points.
 Garrett of the firm of Burnett
 building contractor, Lloyd
 is in the city today, ac-
 He is accompanied by E. J.

College For Lethbridge

Jan. 31.—The plan to establish a ladies' college here, as the result of a meeting of leading citizens recently, is meeting with approval at the meeting, over which Conybeare, K.C., presided. Dr. H. H. Hildebrand, superintendent of institutions in Alberta and British Columbia, laid his propositions before the gathering, explaining that at the present time there is no such college in Alberta. He said that in the case of the Presbyterian church, the denominational as far as

PROLEX DATE SET.

for the Legislature on February 20th.

Jan. 31.—The date of the Prolex bye-election for the has been fixed for February 15th. The bye-election will take place a week