

Former Territorial Court House

FORT MACLEOD, ALBERTA



Edward Mills



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Former Territorial Court House Fort Macleod, Alberta

Between 1888 and 1905 the Government of Canada built a dozen court houses to serve the new settlements on the prairies. Most of these buildings were phased out of service and eventually demolished following the implementation of provincial court systems in Saskatchewan and Alberta in 1907. The Fort Macleod Court House was an exception. Completed in 1904 as a Territorial court house, it remained in service until 1971. It is the oldest court house in Alberta and one of the few buildings surviving from the period of Territorial administration on the Prairies.

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Introduction

The red brick building which currently houses Fort Macleod's municipal offices occupies a distinctive place in the history of western Canada. It was built between 1902 and 1904 as a court house for the Alberta Judicial District of the Northwest Territories, shortly before Alberta became a province. Twelve such court houses were built by the federal government between 1888 and 1905 to meet the judicial needs of the region covered by present-day Saskatchewan and Alberta during the early years of settlement. When the provincial court systems were established in 1907, a few of these buildings remained in use as courthouses for a short time. Most were quickly replaced by larger buildings as communities grew in size, then were either converted to other uses or demolished. Fort Macleod's Court House was the sole exception. It continued to serve as a seat of justice for southern Alberta until 1971; it is the oldest courthouse in the province and one of the few architectural vestiges left from the period of Territorial administration on the Prairies. It was designated as a National Historic Site by the Historic Sites and Monuments Board of Canada in 1980.

Early Courts and Court Houses

One of the most pressing problems facing Canada upon acquisition of the Northwest Territories from the Hudson's Bay Company in 1870 was establishing an effective means of maintaining law and order. Initially the North West Mounted Police (NWMP) were empowered to both arrest and try law-breakers. This combination of police and judicial authority resulted from a lack of civilian residents with suitable qualifications to be appointed magistrates. Minor offences were dealt with either at the site of the crime or at NWMP outposts. More serious cases were tried by the NWMP commissioner or his assistants at the major police posts (Fig. 1). As divisional headquarters and one of the most important early communities on the prairies, Fort Macleod became in effect a seat of justice from its inception in 1874.

Early caseloads were low so there was little need to construct court houses during this period. Instead, trials were held within the NWMP forts. This use of makeshift facilities continued even after the appointment of civilian magistrates in the late 1870s.

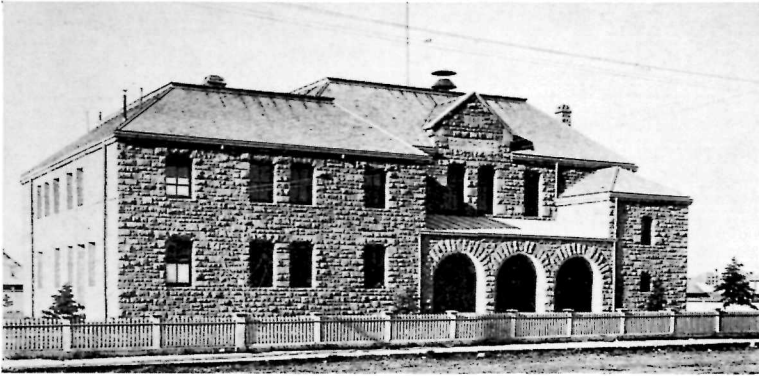
The need for a more sophisticated court system and better facilities arose with the arrival of the first major waves of settlement following completion of the Canadian Pacific Railway in 1885. In the following year the Supreme Court of the Northwest Territories was established and the region was divided into four judicial districts. The appointing of a judge and court clerk for each of these districts and the constructing of proper court houses soon followed.

Although plain and utilitarian in appearance compared to contemporary court houses in the eastern provinces, territorial court houses must have seemed palatial by local standards. The largest ones were built in the major administrative centres of Calgary and

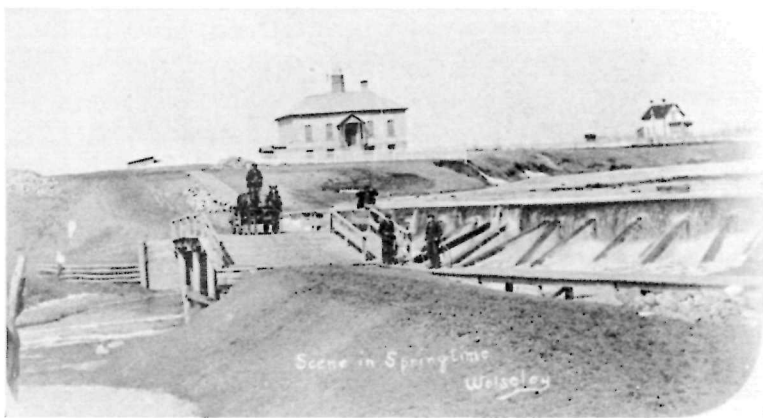
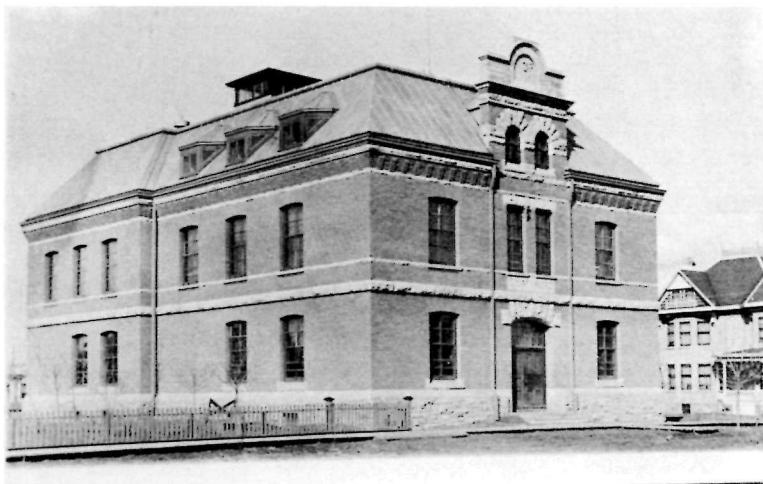
Regina in 1888 and 1894 respectively (Figs. 2 and 3). The Calgary building was of local sandstone and measured 91 feet by 51 feet. It contained administrative offices in addition to a court chamber, a jail and NWMP accommodations. Initially, the Supreme Court judge for the Alberta Judicial District (not to be confused with the later Province of Alberta) was based in this building, but travelled lengthy circuits to hold trials in other communities several times a year. Fort Macleod, along with Medicine Hat, Lethbridge, Cardston and Pincher Creek were regular stops on his circuit through southern Alberta until 1904.

Court houses gradually appeared in several other towns during the 1890s and early 1900s. These were smaller than the Calgary and Regina buildings and varied considerably in appearance. In some communities, notably Moosomin, Yorkton and Medicine Hat, territorial court houses were built of wood and were rather house-like in appearance. At Lethbridge, a multi-purpose brick building was constructed to house the court room, various government agencies and the local post office. In the towns of Wolseley, Moose Jaw, Fort Macleod and Red Deer substantial court houses built of brick and stone appeared (Fig. 4).

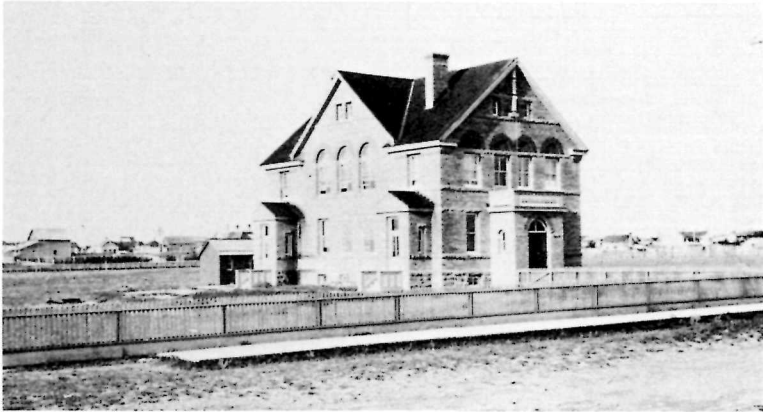
All territorial court houses were constructed according to designs by the federal Department of Public Works' Architectural Branch. This was unusual, for courthouses were normally the responsibility of provincial or county administrations in other parts of the country. Only in the Territories did the federal government's jurisdiction extend to the local administration of justice and provision for its accommodation.



- 1 Before the establishment of the territorial court system, justice on the Prairies was administered by members of the North West Mounted Police. Minor cases were “tried” at the scene of the crime, while more serious ones were dealt with at divisional headquarters such as Fort Macleod and Fort Walsh. In this case, famed Métis tracker and guide Jerry Potts served as interpreter. (R.C.M.P. Archives, Ottawa)
 - 2 Calgary’s first court house was built between 1888 and 1889. It was the largest judicial building constructed during the Territorial period and served as administrative centre for much of present-day Alberta. It was demolished in 1958. (Glenbow-Alberta Institute)
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- 3 The Territorial Court House at Regina was built in 1894 and survived until the 1960s. (Saskatchewan Archives Board, R-A 5534)
 - 4 The 1894 court house at Wolseley, Saskatchewan. Though modest in comparison to contemporary court houses in other parts of Canada, these early buildings must have appeared palatial in the fledgling communities of Western Canada. The Wolseley example still survives, though much altered in appearance. (Saskatchewan Archives Board, A3983)
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- 5 The Fort Macleod Court House as it appeared in 1906. The broad site was originally used for public gatherings and recreation. Note the picket fence and wooden sidewalk. The building has had few exterior alterations, although the site has changed in appearance over the years. (Glenbow-Alberta Institute, NA-303-88)
- 6 A major gathering of Plains Indians on the court house grounds in 1907. (Fort Macleod Museum)
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- 7 A gathering of Blood Indians on the occasion of a visit by the Prime Minister of Canada, Sir Wilfrid Laurier, at the Fort Macleod Court House in 1910. (Glenbow-Alberta Institute)
 - 8 The former Fort Macleod Court House as it looks today. Although the building bears a 1902 datestone, construction continued until 1904. It was converted into the Fort Macleod Town Hall in 1971 after 67 years of continuous services as a seat of justice for southern Alberta. (M. Durand, CIHB, Environment Canada — Parks)
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- 9 The old court room in which Judge Horace Harvey pronounced sentence on horse thieves and cattle rustlers now serves as council chambers for the town of Fort Macleod. Much of the original woodwork and fittings have recently been restored. (Fort Macleod Main Street Project)
- 10 The main hall and staircase display turn-of-the-century craftsmanship. (Fort Macleod Main Street Project)
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- 11 The court house was built of solid brick trimmed with Alberta sandstone. Its cross-gabled design was prepared by the federal Department of Public Works and was used for three territorial court houses built in Alberta between 1899 and 1905. (Heritage Recording Services, Environment Canada — Parks, 1980)
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Fort Macleod's Court House

After the territorial court system was established in 1886, trials stopped being held in the NWMP's headquarters in Fort Macleod. Instead, rented accommodations were found in a commercial building in the town. The name of its former occupant, the Macleod Improvement Company remained in place for many years, which was not entirely inappropriate since, as the local *Macleod Gazette and Alberta Livestock Record* pointed out, "such is the nature of the work aspired to within." The "work" at the Fort Macleod Court House was brisk during the 1890s and 1900s. It was due largely to a chronic problem with horse and cattle theft in the area which the court attempted to curb with severe sentences. Typical was the 1904 case reported in the local paper involving a Pincher Creek resident who explained to the judge that "he was partly drunk when he stole the horse, then got more drunk at Pincher Creek and sold it." Judge Sifton sympathetically observed that the whisky was bad if it made him do such things, then sentenced the man to five years in prison.

By the turn of the century the caseload in southern Alberta was straining the circuit court system. Revisions to the territorial court structure were needed. In December 1902, the Law Society of the Northwest Territories resolved that a resident judge be appointed to handle the increasing volume of litigation in southern Alberta. At the same time, residents of Fort Macleod were awaiting construction of their long-anticipated permanent court house.

Although plans had been prepared, a site selected and a contract let for its construction during the previous year, work on the court house seemed to be plagued by delays. In the fall of 1901 a dispute broke out over where the building was to be placed on the large site known

as the Public Square. Heated arguments raged between middle-of-the-site advocates and proponents of various corner locations. Emergency meetings of the local Board of Trade and the Town Council were held to "thrash out" the issue. Actually, this was a fairly common feature of court house construction everywhere in Canada. Court houses invariably attracted business to the area in which they were located, and so local interest groups voiced strong opinions about where they should be built. Eventually it was decided to place the Fort Macleod Court House on the north side of the Public Square facing on Twenty-Third Street, although members of the Town Council would have preferred it facing south.

Plans for the building were completed by the Department of Public Works' architectural office in July 1902. A contract for its construction was awarded to Patrick Navin of Cranbrook, B.C., in November but construction did not get underway until the following spring. Foundations and stonework for the building were of local stone, while the walls were of brick shipped to Fort Macleod by rail. Difficulties in getting sufficient quantities of material caused further delays in construction, and the building was not finally completed until the fall of 1904.

In the meantime judicial districts in the Northwest Territories were reorganized. This resulted in a separate judicial district for southern Alberta to relieve the Calgary-based judge of some of his work load. Fort Macleod was selected as the place of residence for the newly appointed judge, Mr. Justice Horace Harvey, who assumed his post just as the new court house was nearing completion. The building was officially opened on 11 November 1904. The first cases to be heard, incidentally, dealt with one assault charge, two charges of cattle theft and one of horse stealing.

The exterior of the Fort Macleod Court House is little

changed from the time of its construction. It is a solid-looking 2½-storey building of simple design (Fig. 5). The plans for the building were used for two other territorial court houses built about the same time: a wooden example constructed at Medicine Hat in 1899, and an almost identical brick one at Red Deer built between 1903 and 1905.

The site on which the court house stands has changed considerably over the years. For the first decade after its construction, the building stood alone on the Public Square, a broad open site occupying the entire block between Twenty-First and Twenty-Third Streets. The square was the site for various public events including annual assemblies or “pow wows” attended by Plains Indians from throughout the region. An estimated 5000 band members converged on the Square for the 1907 pow wow (Fig. 6). In 1910 Sir Wilfrid Laurier, then Prime Minister of Canada, addressed a similar gathering from the court house steps (Fig. 7). During the 1920s, the site began to change as a bandstand, war memorial, curling rink and North West Mounted Police cairn filled the Square and the pow wows ceased. Various public buildings were built in the following decades.

The interior of the court house was also altered over the years. As originally built, it contained offices for the court clerk and sheriff, along with a guard room, three cells, a storeroom and kitchen on the ground floor. The courtroom occupied the central part of the upper floor, with a lofty ceiling projecting into the attic area: chambers for the judge, jury, bar and witnesses were located at either end.

One of the first alterations to the building occurred a few years after its completion when indoor plumbing replaced outdoor facilities. The new lavatories displaced prisoners’ cells which were relocated in the basement; one of these cells still remains. The original vault in

which court records were stored also survives, as do many of the furnishings in the recently refurbished court room.

The Fort Macleod Court House was one of the last court houses built to serve the territorial court system. In 1905 the provinces of Saskatchewan and Alberta were born, and provincial court systems were introduced two years later. New judicial districts were established, some of which coincided with the existing territorial districts and some which did not. As a result a number of territorial courthouses were quickly phased out of service. Others, such as the buildings at Calgary, Medicine Hat, Moose Jaw, Yorkton and Wolseley, were maintained for several years until larger replacements could be built. The Regina Court House stayed in service until it was demolished in 1960.

Initially residents of Fort Macleod expected their court house to be quickly replaced along with most of the others. Although the building was acquired by the Province of Alberta and immediately employed for the newly formed Macleod Judicial District, preliminary plans were made for construction of a larger replacement in 1912.

Hopes for a bigger and grander court house failed to materialize. They were thwarted by an untimely recession which brought growth to a halt and ended construction of new public buildings in the province. As a result the Fort Macleod Court House narrowly escaped demolition, a fate which gradually claimed most former territorial court houses in Alberta and Saskatchewan. The only other still standing is located at Wolseley, Sask. Built in 1894-95, the Wolseley Court House was closed in 1907, then converted for various other uses in later years. Today as an annex to a nursing home it is altered beyond recognition.

With periodic interior renovations the Fort Macleod Court House continued to serve as a judicial building until May 1971 when its long-awaited replacement was opened. The old court house was then turned over to the Town of Fort Macleod and converted into the Municipal Hall. Today the court room in which justice was rendered for 67 years remains largely intact, although the bench where Mr. Justice Horace Harvey once imposed sentence on horse thieves and cattle rustlers has been replaced by the desk of the town council (Fig. 8). Today much of the building's interior has been returned to near-original appearance as a result of careful renovations (Fig. 9 and 10). The Fort Macleod Court House is now the last intact example of an early court house constructed during the period of Territorial administration on the Prairies (Fig. 11).

Suggested Readings

Carter, Margaret, comp. *Early Canadian Court Houses*. Studies in Archaeology, Architecture and History. Parks Canada, Ottawa, 1983.

Macleod, R.C. *The North-West Mounted Police and Law Enforcement 1873-1905*. University of Toronto Press, Toronto, 1967.

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