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NINTH YEAR. THURSDAY MORNING, FEBRUARY 16, 1888. PRICE ONE CENT.

## MR. CAMPBELL DETHRONED

*CHANCELLOR BOYD DELIVERS JUDGMENT ON MESSRS. HOWLAND AND GOODERHAM'S PETITION.*

**Conclusion of the Argument—His Lordship's Exhaustive Review—The Creditors to Meet and Choose His Successor—The Deposed Liquidator Interviewed by The World.**

At last the principal act re the Central Bank has been played. Mr. Archibald Campbell has been deposed and his office declared vacant. His colleagues, Messrs. Howland and Gooderham, the petitioning liquidators, are continued in their post and will together proceed with the business of the liquidation until the creditors give them a colleague.

This Chancellor Boyd decided yesterday, and in support of his judgment gave an exhaustive review of the functions of liquidators and the range and operations of the Winding-up Act. He impartially considered the charges and counter-charges of the divers affidavits, and whilst exonerating Mr. Campbell from several of the charges preferred against him, said the duty of the court was to remove him from his office, principally on the ground of want of harmony with his colleagues in the work of liquidation.

No order was made as to costs and the arrangements for the fresh election were left to Master Hodgins.

This stage of the prolonged proceedings was not reached until 6 o'clock last evening, the Chancellor's summing up occupying more than an hour.

The earlier proceedings lost their interest and importance by His Lordship's decision. They may be concisely summarized by stating that Mr. Maclennan, Q.C., took up the argument in reply to the petition against Mr. Campbell, and spoke effectively for 2½ hours.

Mr. Bain, Q.C., followed on the same side and occupied nearly as long. He was in good voice and form, and eloquently denounced the "conspiracy" against his client, the charges preferred having, he maintained, no little evidence supporting them. Mr. Foster briefly replied to certain points and then came the climax, when at 5 o'clock Chancellor Boyd commenced his judgment.

**The Chancellor's Charge.**

The Chancellor said:

"I very deeply regret that this application has been made—that there has been a necessity to bring this matter before the court. That there was a necessity is perfectly manifest to any person who looks at the evidence supporting the affidavits of the petitioning liquidators. This is the third day on which these proceedings have been before me, and the matter before the court have assumed a large bulk. However I might feel it desirable to take a longer time to consider my judgment, the interests of the business of the court are such as to prevent me postponing it or putting my opinion in a more definite form. It is painful to the parties that I should decide now. I think I can with sufficient clearness express my views, and considering the way in which the case has been ventilated through the press, and the interest taken in it, my judgment will without delay reach the persons interested in this controversy.

"It is a very unfortunate circumstance these who will have to suffer in this matter. After all the contributories have been called upon and the assets realized there will be a very considerable shortage. Whether anything can be realized from doubtful claims or by following officers who have been guilty of dereliction of duty, or giving preferential payments, is difficult to say at present. I very much fear that there will be a considerable deficiency.

"This is a most alarming state of affairs. When one considers the history of this bank, the position of the men in connection with it, and the other terrible wrecks which have occurred, one is obliged to say that there has been not only gross incompetency—I might almost say idiotic mismanagement—but disingenuous conduct of its affairs. This is a matter which is very important in considering the whole aspect of the case before me.

"Personally in this province we have had very little experience in the winding up of banks. There may have been no well defined rules or practice. Many of the questions have been argued without authorities. Some of the views I may express will be given for the first time in this court.

"Let us consider the position of the court with reference to liquidators. Very considerable difficulty may be found in the winding up of banks where three liquidators are required. There is the express stipulation of the Act in reference to banks. It may be expected that there will be divergencies of opinion, differences of policy between liquidators where more than one liquidator is appointed. In such cases the courts may have to intervene. The difficulties in this case are of a more serious character, and one may say that it is impossible for these three gentlemen to work together. Two of them have stated that they will not work with the third party in the office to which they have severally been appointed. It is impossible for the court to yoke these three men together. The lack of harmony, disagreements and various disputes would result in the ruin of the business, and the court would be obliged to intervene to moderate between them and this means considerable expense. It is in the interests of all the parties concerned that there should not be this want of harmony."

The learned judge then explained the scheme of the Winding-up Act—the meeting of creditors and shareholders, the voting, the confirmation of election by the court, and other procedure. There is to be one liquidator representing the interests of shareholders, one that of the creditors, and a third—a disinterested person—controlling the balance of power between the other two. He stated the steps which had been taken in reference to the Central Bank. At the meeting for the selection of Mr. Campbell and Mr. Gooderham, the only matter in dispute being whether Mr. Stayner or Mr. Howland should be the third liquidator.

Said the Chancellor: "I decided in favor of Mr. Howland because he was neither creditor nor shareholder. Mr. Stayner appeared to have the same interest as Mr. Gooderham, that of a heavy stockholder. He was therefore liable to be called upon to make good his share of the deficiency and assessable. I believe a creditor of the bank. The court did not pass any judgment upon the qualifications of either Mr. Howland or Mr. Gooderham. They were accepted by the court without any consideration of their claims. Mr. Scott, representing the creditors, stated that they felt so strongly the importance of having Mr. Howland on the board as liquidator that if only one were to be appointed Mr. Howland would be their choice.

"Mr. Campbell was chosen because his had special knowledge of the winding-up of banks. He was regarded as an eminently proper person for the office, whose services it was thought would be invaluable. He was looked upon as a practical man, one who would be the managing liquidator. But under the terms of the Act they were each equally responsible and charged with the administration of the estate. I have no doubt it practically built. Mr. Campbell did occupy the position of managing the business of the concern. By a sort of tacit acquiescence on the part of the other two liquidators they trusted matters in his hands."

His Lordship then recited the dates and proceedings in connection with the liquidatorship, and continued: "There was harmony at the outset. It is perfectly clear there is not harmony now, but, on the contrary, a very wide divergence in the views of the liquidators."

"Mr. Campbell's policy, as it seems to me, was this: "It is important that this concern should be wound up, the assets realized, the creditors and shareholders and noteholders paid as soon as possible, and all at the smallest expense. It is not for us to search into frauds. It is not for us to play the part of detectives. There are a great many bygone transactions as to which Mr. Sleeping does ile, to use a proverbial expression. That was the course of his action and the tenor of his expression as to the proper policy in regard to the bank. I may summarise it by saying that it was a strictly economic policy, and there is a great deal to be said in favor of that views, also in ordinary and special cases. The more that can be saved for the creditors and the quicker the better for the estate. That was Mr. Campbell's policy. As matters went on divergences occurred and want of confidence sprung up in the minds of his co-liquidators.

"Messrs. Howland and Gooderham seemed, on their part, to have taken this position: There has been very gross dereliction of duty, business been very irregularly done, and it is our duty to investigate these things." Speaking personally, I am in sympathy with that view. I think the whole scope of the Act indicates that there are cases in which it would be the bounden duty of the liquidators to investigate suspicious or fraudulent transactions, to see where the blame rests for such terrible financial trouble, and to put the blame on the right shoulders.

"Then we have to consider what is the policy of this court and this Act in the interests of the country at large. Is money the best thing—that which should be primarily considered in a liquidation? No. It is good in its way; but it is not to be got at the expense of public morality. If the investigation of criminal matters were left to individual creditors or shareholders the old proverb would come in, 'What is every man's duty is no man's duty.' But under this Act liquidators are charged with this duty: They are to engage in this under the supervision of the Min. or and. It has to be done in reason and moderation. Money is not to be wasted, charges are not to be investigated which will probably result in nothing, there suspicion is not to be followed up at the expense of the estate. But suppose if $200 or $300 were expended in detecting wrong-doing, putting the blame on the proper persons, such as the half d. z.n men whose names have been mentioned in this enquiry, is not that in the interests of commerce and the bank? I think it is. The deduction of this small amount from the funds would have an inappreciable result in the end of the liquidation, and would be well spent. This is my opinion; the creditors may not think so. So acting for the court and the best interests of the country, I should say that such cases should be investigated. The Legislature has intended that this should be part of the duty of the liquidators.

"It is important in such extraordinary transactions as those in connection with the Central Bank, where there has been gross dishonesty, that the guilt should be brought home to the guilty parties."

His Lordship then read the sections of the Winding-up Act bearing on the other duties of liquidators and also in reference to misfeasance of officers, etc. The sections His Lordship commented on were 30, 52, 81, 83 and 96. In carrying out these provisions liquidators would not be playing the part of detectives, but be, as it were, in the place of public prosecutors. In England there has been a good deal of discussion as to public prosecutors. This Winding-up Act puts liquidators in the position of quasi-public prosecutors. The Legislature has protected commercial morality by this Act.

Mr. Campbell thought this was not the proper way to deal in this particular case. He said, "Let us go to the Attorney-General, and let the cost of the prosecutions fall upon Ontario." That was in the teeth of the economic policy which he advocated. "It strikes me," said the judge, "that in this case the Attorney-General would have asked the liquidators to investigate and present him with the materials available for such prosecutions."

"In the course of the arguments in this application there has been a very great breadth of accusation and great warmth of advocacy by counsel. They have gone into points which I am happy to say do not fall on me to arbitrate on at all. I do not consider Mr. Campbell in his trial. I do not find that there is any incapacity on his part for the performance of his duties. On the contrary nothing appears in evidence to show that there is any incompetence on his part to deal with the winding-up in the most efficient way. Nor am I called upon to decide as to the alleged incompetence of Messrs. Howland and Gooderham. Nothing has occurred to show me that they are not as competent now as when first chosen.

"This is the practical position. Here is a board of three liquidators—two against one. I take it that the two represent the views of the creditors. If there is to be a readjustment of the board, who is to go out—the two or the one? I think the interests of the creditors demand the dismissal of affairs the one should yield to the two. The liquidators are the hands of the court, and unless there be co-operation and agreement the proceedings will be paralyzed. Such a state of things cannot be tolerated by the court.

"The Chancellor reviewed the points of difference amongst the liquidators and the charges and counter charges. Everything had been argued at great length. Many of the charges had been disproved. Many of them were of little importance. Others had been explained, and some remained in doubt owing to the conflicting affidavits. Suspicion naturally has been awakened in the minds of Messrs. Howland and Gooderham it was reflected on the conduct of Mr. Campbell, so that they perceived a great practical scheme of opposition in what had previously been a difference of opinion or divergence of policy. They thought that the delay in winding such accounts as they desired had arisen because of the possible relations of Mr. Campbell with some of those implicated, that he would not willingly expose fraud or accelerate criminal or other proceedings against them.

"This to my mind," said the learned judge, "gives the key to the whole position. It is not for me to proportion praise or blame as to these matters. It may be that Mr. Campbell is quite right in the way in which he has conducted the concern. But if not right in his mode of procedure with the books and accounts, this can be adjusted by the Master and the charge met by the erring liquidator." A great deal had been said about the way in which this petition was spring upon Mr. Campbell and altogether that there had been an improper motive actuating the petitioners. Said the Chancellor: "I must exculpate them. I believe they acted in the in the best interests of the creditors as they thought. It may be a matter of opinion as to whether they took the right way to make the application; but the proceedings are to a great extent novel, and no definite rules have been framed. I dismiss from the argument of Mr. Bain that this was an unwarrantable proceeding. It may be a question whether a private application would have been better. But, if the latter, all sorts of insinuations would have been made and spread abroad."

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The Chancellor then dealt with the Cox-Barnett papers, stating that he supposed there was good reason why Mr. Allen did not prosecute Cox, to keep things quiet, to get in the money and say nothing about any crime. Why did he not take his co-liquidators into his confidence? I cannot say that he gives a satisfactory explanation, although he may be justified in acting as he did, afraid of imperilling the chance of getting $14,000 by a criminal prosecution.

The Barnett acceptances were commented upon by His Lordship at some length. "Barnett was apparently an adventurer for whom no one had a good word. Probably the liquidators would further investigate the matter of these acceptances. Perhaps they would discover something; perhaps they would not. I cannot say that I have formed any satisfactory view of the transactions, but it is evident that Baxter, Barnett and Campbell were working together. Campbell's dealing with these acceptances might have been a bona fide transaction; he may not be indicted. There is no evidence that Campbell had other than a business relation with Baxter as to these acceptances. The politicians, liquidators were not satisfied with these relations and transactions. Their suspicions made Campbell resent. This was probably the explanation of the private meetings of Mr. Howland and Mr. Gooderham which Mr. Bain called "conspiracy."

"It seems to me," said the Chancellor, "that the duty of the court is perfectly plain. The court has power to call another meeting of the creditors and to submit to them the question as to who the third liquidator should be. Section 19 of the Winding up Act provided for this.

"This is a case in which the creditors are the all-important persons. They are the ones who will have to suffer. They are those from whom the executiture will come in tracing those different criminal acts which have been committed. It is for them to say how far this shall be done. They may condone matters if they like. They may say 'we are quite willing to expend $1000 or $2000 in tracking these defaulters.' They may affirm their confidence in Mr. Campbell. They may be satisfied with his explanations and assert that he has done nothing which implicates him in these matters, that he is perfectly free from blame, and that his services and qualifications are such as to render him an invaluable servant.

"So far as Messrs. Howland and Gooderham are concerned the creditors know all about them. But the creditors did not know what this examination has disclosed as to Mr. Campbell's connection with Baxter and the others whose names are mixed up in these proceedings. It is for the creditors to say whether they will continue confidence in him.

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"It seems to me," said the Chancellor, "that the duty of the court is perfectly plain. The court has power to call another meeting of the creditors and to submit to them the question as to who the third liquidator should be. Section 19 of the Winding up Act provided for this.

"This is a case in which the creditors are the all-important persons. They are the ones who will have to suffer. They are those from whom the executiture will come in tracing those different criminal acts which have been committed. It is for them to say how far this shall be done. They may condone matters if they like. They may say 'we are quite willing to expend $1000 or $2000 in tracking these defaulters.' They may affirm their confidence in Mr. Campbell. They may be satisfied with his explanations and assert that he has done nothing which implicates him in these matters, that he is perfectly free from blame, and that his services and qualifications are such as to render him an invaluable servant.

"So far as Messrs. Howland and Gooderham are concerned the creditors know all about them. But the creditors did not know what this examination has disclosed as to Mr. Campbell's connection with Baxter and the others whose names are mixed up in these proceedings. It is for the creditors to say whether they will continue confidence in him.

"My judgment is this: So far as I am concerned I do not take the responsibility of continuing Mr. Campbell in his position as liquidator. The proceedings tell against him, and I must have regard to the stand which the other two liquidators have taken against him. It is now for the creditors to say what they will do.

"Therefore I direct that the office of liquidator occupied by Mr. Campbell be vacated, and that a meeting of the creditors be called for the purpose of nominating a person to fill this third liquidatorship, without prejudice to Mr. Campbell being nominated for the office. The time and place of meeting will be settled by the Master.

"I do not dispose of the question of costs at present.

"There need be no suspension in dealing with the accounts by the other liquidators, Messrs. Howland and Gooderham. Their proceedings will go on as at present, in the meanwhile."

**Counsel's Last Words.**

Mr. Bain: "I ask your Lordship to direct that the liquidators shall not interfere with the meeting to be called in any way, or endeavor to procure proxies to represent creditors at the meeting. Messrs. Howland and Gooderham the books in their possession and know who the creditors are. The meeting should be perfectly free, and there should be a clear understanding that the liquidators take no part in the meeting."

The Chancellor: "I think it is better to let all speak and deal with the matter as they choose."

Mr. Bain: "I do not object to the liquidators

## THE HOUSE HARD AT WORK.

*A NUMBER OF IMPORTANT BILLS ADVANCED A STAGE.*

**A Three Hours' Session Results in a Good Showing—Protection of Guests at Hotels—The General Road Companies Act—The Deputations.**

Yesterday was a busy one with the Legislature. For about three hours the House devoted itself assiduously to the business which had accumulated on the order paper. The feature of the sitting was the advancement of several important bills a stage. Although the House did not hold an evening session it may be fairly claimed that they did a good day's work. All the members except three or four were in their places. The adjournment was at 5.50.

Mr. Meredith asked whether any journal or other record of the proceedings of the conference of certain members of the executive councils of this and certain other of the provinces held in Quebec in October last was kept. If any such journal or other record was kept, if it is the intention to lay a copy of it before the House.

The Attorney-General said—I believe that a journal or other record of the proceedings of the conference was kept. A copy of it has been sent to every member of the House.

Mr. French asked whether, in view of the recent considerable increase of jurisdiction of the division courts and the narrowing down thereby of the jurisdiction of the county courts, it is the intention of the Government, during this session, to abolish the present jurisdiction of county courts and transfer such jurisdiction to the division courts, or, on the other hand, to largely increase the present jurisdiction of the county courts.

The Attorney-General—It is not the intention of the Government at the present session to introduce any measure with reference to the question asked by the hon. member for Grenville.

Mr. Blyth moved for an address to the Lieutenant-Governor praying that he will cause to be laid before this House a return of copies of all orders in council with respect to the investment of sinking funds of municipalities under the provisions of the Municipal Act. He contended that though, according to law, the municipalities were permitted to invest money in the debentures, provincial and Dominion companies, first mortgages or real estate, municipal debentures, provincial and Dominion securities, yet in practice investment were not what was desired. Investment in trust companies was insecure, and he knew of trust companies that had lost $24,000 and the other $14,000 by depositing in the Central Bank. What they wanted was a government savings bank, where the municipalities could deposit. The Government was borrowing from other sources and it might just as well borrow from the municipalities, and at the same time confer a boon on them by keeping their money till it was required. Hon. A. M. Ross intimated that the Government would consider the question of the investment of sinking funds.

**Millbrook's Losses.**

MILLBROOK, Feb. 15.—The principal losses by last night's fire, which was caused by the bursting of a lamp, are: Lang, groceries, $1200, insured $800; Armstrong, dry goods, $1500, insured $1000; S. Hutison, harness, $1000, insured $700; Moffatt, boot and shoes, $200, no insurance; Counsie, tailor, $4000, insured $2000; Mulligan block $4000, insured $2000.

**Quebec's Little Blaze.**

QUEBEC, Feb. 15.—The fire which originated in the gas works to-day got under control at the start, only about $30 damage being occasioned by insurance.

**A Big Fire at Elmira.**

ELMIRA, N.Y., Feb. 15.—The entire building of The Elmira Advertiser was burned to-night. Nothing was saved but a few files. The binding, composing room, and editorial employes all had narrow escapes. The Sunday Tidings office, next door, was saved. The Advertiser's loss is from $60,000 to $70,000. Insurance, $30,000. The Sunday Tidings loses $2,000, insured; Sunday Tidings loss $7000, insurance $2500; J. M. Robinson & Sons loss $30,000, insurance $16,000; Robinson's Sons, making loss $23,0, no insurance; loss on the two buildings destroyed besides The Advertiser and Robinson's buildings $6000. Insurance on Robinson building $25,000, insured $20,000.

*ONTARIO GRAND LODGE, A.O.U.W.*

**Tenth Annual Session in Progress at Hamilton—Grand Recorder's Report.**

HAMILTON, Feb. 15.—The tenth annual session of the Ontario Grand Lodge, A.O.U.W., opened here this morning and in all 53 representatives responded to their names. Grand Master H. B. Taylor of Whitby stated that on Dec. 31, 1887, there were in Ontario 229 lodges, with a membership of 14,003. During the year 26 death benefits were paid. Five lodges had been put to the widows and orphans of the deceased brothers.

Grand Recorder M. D. Calder's report showed 1,101 members had died during the year, $193,955, an increase of $20,645 over last year. There have been 17 lodges organized during the year, with an average membership of 27.

Last night the Westworth graduates and undergraduates of Toronto University held their 8th annual dinner, about thirty-five being present.

Albert Logan of Toronto, agent, was charged at the Police Court yesterday with receiving of a watch from J. W. Bigger. Logan claimed that he won the watch from Bigger on a bet and was allowed to go, the watch being returned to Bigger.

**An Alleged Connection of the C.P.R.**

ALBANY, N.Y., Feb. 15.—In the State Senate to-day Mr. Erwin's bill giving the Schenectady and Ogdensburg Railway Company the right to operate steam barges, floats and boats came up on its final passage. Mr. McLaughlin read statements that the Schenectady and Ogdensburg was a connection of the Canadian Pacific, and under the provisions of the bill the Canadian Pacific could control the shipment of grain and merchandise from Sault Ste. Marie to Ogdensburg by way of the Welland instead of the Erie or Oswego Canals, and possibly to Boston instead of New York. The bill was recommitted to the Railway Committee for hearing.

**Not so Bad After all.**

LONDON, Ont., Feb. 15.—Grossly exaggerated reports have been published recently in a local newspaper and widely copied regarding the number of illegitimate children born in London, it being stated that no less than 128 cases had been treated in the City Hospital during the past year. At to-night's meeting of the Hospital Trust Superintendent Balfour presented a report showing that 31 cases of child birth were treated at the hospital during the year. Of these 2 were married women and the majority, he believed, were from outside localities, the hospital being taken advantage of for this purpose by the entire western peninsula.

**The Parkhill Brute Lodged in Jail.**

LONDON, Feb. 15.—Allan Patton, who is charged with criminally assaulting a girl of 15 or 16 while out sutter riding at Parkhill, was lodged in the jail here to-day. The girl's name is Hannah Hoven, and she was in the employ of Mr. Simon McLeod, Warden of Middlesex, who laid the information in the case. According to the testimony the assault was a most brutal one. Miss Rowe in her endeavors to escape from Patton jumped from the sleigh and sprained her ankle.

**Suspected Murder by Poisoning at Ayr.**

AYR, Feb. 15.—Coroner Brown of Galt will hold an inquest to-morrow on the death of Wm. Perrin who died here suddenly on Feb. 14. Owing to the suspicious circumstances connected with the case, which point to poison by arsenic, four jars of viscera, stomach, and Mrs. John Russell, Mrs. Wm. Perrin, wife of deceased, and a man named Scott, have been placed under arrest.

**Death at Monte Carlo of a Cobourg Lady.**

COBOURG, Feb. 15.—A cablegram from Monte Carlo has brought the tidings of the death of Mrs. Rosamond, wife of Wm. Rosamond, President of the Cobourg Woolen Manufacturing Company. Mrs. Rosamond was the eldest daughter of Col. Scill, a retired officer in Her Majesty's army. She was 20 years of age and was held in high esteem.

*The balance of Japanese, liberty, etc., silks, Madras muslins and other window sash curtain materials to be sold at much under usual price. W. A. Murray & Co. are preparing to take stock.* 224

## DEBATING THE ADDRESS.

*THE ADMINISTRATION OF THE CRIMES ACT DENOUNCED.*

**But Col. King-Harman Declares That the National League is Losing Power—William O'Brien and John Dillon Make Their First Appearance for the Session.**

LONDON, Feb. 15.—The debate on the address in reply to the Queen's speech was resumed in the House of Commons to-day by John Ellis (Liberal), who supported Parnell's amendment. He denied that the decrease of crime in Ireland was owing to the Crimes Act and asserted that the returns submitted by the Government to support that claim were valueless, inasmuch as they failed to give details which would enable the identification of any of the cases they cited. He condemned the action of the Irish magistrates, many of whom were unqualified for the positions they occupied, while others had been guilty of arbitrary conduct. The administration of the Crimes Act reeked with petty malignity and calculated tyranny. [Cheers from the Irish members.] If the Government would assent to the appointment of a select committee of inquiry he promised that amide evidence of maladministration of the act would be forthcoming. The National League was stronger than ever, and the spirit of the Irish people remained unbroken, the reason being that they were convinced that when the facts were known the electors would sweep away the present mockery called the Government of Ireland. [Irish cheers.]

Col. King-Harman (Conservative) declared that the events of the past few months showed that the league was losing power. No real attempts were now made to hold meetings in the proclaimed districts.

Herbert Gladstone taunted the Government with the utter failure of their attempt to prevent the progress of the Plan of Campaign or to suppress the National League.

On motion of Wm. O'Brien the debate was adjourned. Mr. O'Brien will resume the discussion to-morrow.

William O'Brien and John Dillon made their appearance in the House to-day for the first time this session. They were warmly greeted.

*CURLING FOR THE TANKARD.*

**A Great Day at the Ice Rinks—General Sporting News.**

The curling competition for the Ontario Tankard, which commenced yesterday and will be concluded to-day, is the keenest that has characterized the annual struggle for the trophy. More interest has been manif