(From The Daily Colonist, November 5)

UPHELD ON APPEAL.

The Full Court Sustains the Judgment Against Victoria in the Patterson Action.

Views of the Chief Justice Concurred in by Justice McCreight—Justice Drake Dissenting.

Of great importance to the ratepayers of Victoria is the judgment of the Full court delivered yesterday, affirming the judgment of Mr. Justice McColl in Patterson v. the City of Victoria. This was the suit for damages brought against the city by Mrs. Patterson in consequence of the death of her husband, who was one of the victims of the Point Ellice bridge accident. The case was tried at Vancouver, the jury bringing in a verdict against the city of Victoria for $13,500. From the judgment in accordance with this verdict the city appealed. The Chief Justice and Mr. Justice McCreight yesterday decided against the city, Mr. Justice Drake dissenting.

Mr. W. J. Taylor and Mr. Robert Cassidy, with Mr. C. Dubois Mason, appeared for the city; Mr. E. P. Davis, Q. C., and Mr. D. G. Macdonell for Mrs. Patterson.

Mr. Cassidy, when judgment was delivered yesterday, applied for and obtained leave to appeal to the Privy Council.

The following is the text of the Chief Justice's judgment and that of Mr. Justice Drake:

CHIEF JUSTICE DAVIE.

The jury have found that the corporation had knowledge of the insufficient strength of the bridge in time to have prevented its use by the company before the accident, and had suffered the bridge to fall in such disrepair as by reason thereof to become dangerous for tramcar use by the company. It appears that Cox, the city carpenter, in the discharge of his duty and by the order of the city engineer, had bored an auger hole part way through beam No. 3 for the purpose of testing it, and had then plugged up the hole with oakum. The beam was permitted to remain in this condition until the accident; the primary cause of which the jury find was the breaking of this beam, which was thoroughly rotten at the place where it broke, and the jury also find that the hole bored by Cox undoubtedly added largely to the rottenness of the beam. As there is no question that the findings are abundantly supported by the evidence, the question of course is whether the facts which they establish give the plaintiff a cause of action against the corporation. It is clear that such right of action does not arise if the only fault of the corporation is their mere failure to repair the bridge or any mere omission to do that which they might and, perhaps, ought to have done, for, as held in Pieton v. Geldert, L.R., 1893, A.C., 524, "Public corporations to which an obligation to keep public roads and bridges in repair has been transferred are not liable to an action in respect of mere nonfeasance, unless the legislature has shown an intention to impose such liability upon them. Therefore, in an action for damages for injuries caused by the neglect of the appellant municipality to repair a bridge held that by the county incorporation act, under which it was incorporated, there was no indication of an intention to impose the liability sought to be enforced." If such be the construction of a statute imposing upon the corporation the obligation of repair, a fortiori, would it seem to be so under the general municipal act of this province, which is simply permissive in its terms and imposes no obligation to repair whatever. As remarked in Atkins v. Banwell, 3 East, 92, "a nonfeasance is not within clauses of this kind."

But whilst exempt in the fullest way from the consequences of mere nonfeasance, "the statutes," as remarked by Lord Watson in Ogston v. Aberdeen, 1897, L.R., A.C., 115, "give the corporation no right to create a nuisance, and they have no such right at common law." If a public corporation by any act which it does, impedes or endangers the highway, it is said to be guilty of misfeasance; in other words, it causes a nuisance, for which it is just as responsible as any other wrongdoer who is not a public corporation. It is not at all necessary to complete the responsibility of the corporation that the nuisance should be attributable to any one act of the defendants in particular, without which, apart from other circumstances, the nuisance would not have been occasioned, nor that it should be an act in the nature of a trespass, nor, indeed, any act of commission at all. On the contrary, many of the cases in which corporations have been held liable for misfeasance are in respect of acts of omission only, which would have amounted to mere nonfeasance had it not been for antecedent acts performed or sanctioned by the corporation, but which in the public safety required to be guarded against. Thus in Davis v. Curling, 8 Q.B., the declaration charged that the defendant was under the highway act (5 and 6, W., 4, C., 50), surveyor of the parish of T.; that gravel had been placed in a highway in T., by means of which gravel the highway was obstructed, and the gravel was a nuisance to the public; that defendant had notice and was requested to remove the same, but he well knowing, etc., did not, nor would in a reasonable time remove, or cause it to be removed, but, on the contrary, conducted himself with gross negligence, and knowingly, wilfully and wrongfully . . permitted, caused and suffered the gravel to continue and be upon the highway, obstructing the same, remaining and being a nuisance to the public for a long and unreasonable time, without taking any care or precaution to guard against danger or damage to persons passing, contrary to his duty, etc., whereby the plaintiff's carriage was overturned and he was injured. It was proved that the defendant had notice of the gravel being laid, and had been guilty of want of care in leaving it there, and that this had caused the accident. It was held that the defendant was charged with a thing done in pursuance of the act. Lord Denman, C.J., in giving judgment, says: "It is clear that the defendant is charged with a tort committed in the course of his official duty; he is charged as surveyor with the positive act of leaving the gravel in the road where it had been improperly placed for an unreasonable time." And Patterson, J., says: "The charge is not one of mere omission, but of actually continuing the nuisance. * * * The continuation, therefore, was a thing done in pursuance of the statute."

In Pendelbury vs. Greenhalgh, L.R. 1, Q.B.D., defendant was surveyor of highways of a parish, the vestry of which had ordered 150 yards of road to be raised, and defendant was to carry out the order. He contracted with his brother to do the labor, the vestry finding the stones and material. The defendant had nothing to do with the labor except superintending on behalf of the vestry. After commencing the work and heaping up stones, etc., it was left at night, without fencing or light, in consequence of which plaintiff's carriage was upset. Whilst it was admitted that the defendant would not be responsible if the work had been simply let to the contractor, who, by his negligence, had caused the injury, yet it was held that the defendant was responsible, for the injury proceeded from a combination of circumstances, i.e., the placing of the stones and leaving the place unlighted, and for the latter the defendant was held responsible, as his brother had only contracted for labor; whereas the work consisted of material, labor, superintending and lighting and fencing for which other than labor defendant was liable, as for misfeasance, although his fault was only an omission. Similarly in Foreman v. Mayor, etc., of Canterbury, L. R. 6 Q. B., the defendant as the local board of health had left a heap of stones on the road, without light or fencing, whereby plaintiff on a dark night upset his cart and was injured. The defendants were held liable for their omission to fence and light. In all these cases the defendants were held liable because by their omission they had produced a nuisance in the highway. To the same effect and upholding the same principle is the case of Borough of Bathurst vs. McPherson, L.R. 4, Ap. Cas. 256. There the municipality constructed a barrel drain, the brickwork of which having broken away, and not having been repaired, a hole was caused into which the plaintiff's horse fell carrying plaintiff with him, and causing a compound fracture of plaintiff's leg. The chief justice who tried the case directed the jury that the defendants were not liable for any mere nonfeasance; that if the accident was caused by the negligent way the sewer was constructed they were liable, but if the sewer was properly constructed in the first instance and it became defective afterwards, they were not bound to repair it, and further that if the defective state in which the drain was arose from the operation of the weather or wear and tear, it having been properly constructed originally, they were not liable. It was held on appeal to the judicial committee of the Privy Council that this was a misdirection, their Lordships pointing out that the barrel drain was not only made by the defendants, but the sole control and management of it were by statute vested in them. By reason of their construction of that drain and their neglect to repair it, whereby as an indirect, but natural consequence, the dangerous hole was formed which was left open and unfenced, the defendants caused a nuisance in the highway, for which, whatever their statutory obligation to repair may have been, they were liable to an indictment, and also to an action by the plaintiff, who had sustained direct and particular injury from their breach of duty, and, says Sir Barnes Peacock, p. 265, "It is clear that the hole was caused by an artificial work, viz., the barrel drain, which was constructed by the council, and that the accident would not have happened if that drain had not been made, or if it had been kept in repair so as to prevent the soil adjacent from washing into it, and forming the hole in question." This being the state of facts, their Lordships do not think it necessary to decide whether it was the intention of the legislature to throw upon the municipality the obligation of keeping in general good repair the roads and streets placed under its management. After giving reasons for holding that the duty was cast upon the corporation of repairing the artificial work which they had constructed, the judgment continues: "Their Lordships are therefore of opinion that the appellants, by reason of the construction of the drain and their neglect to repair it, whereby the dangerous hole was formed which was left open and unfenced, caused a nuisance in the highway for which they were liable to indictment. This being so, their Lordships are of opinion that the corporation are also liable to an action at the suit of any person who sustained a direct damage from their breach of duty, citing Henley vs. Mayor of Lyme Regis, 5 Bing., 101 S.C. in E.E. 3, B. and A. 77, and in H.L. 8, Bh., N.S. 690, and also per Pollock, C.B., in McKinnon vs. Penson, 8 Exch., 327."

It is true that some of the other observations of the learned Lords in the case just quoted are considered in subsequent cases before the same tribunal to have gone beyond the point for decision, and perhaps to be erroneous, but the principles which I have quoted from that case and the particular decision therein are distinctly affirmed in the subsequent cases of Pictou vs. Geldert, L.R., 1893, App. Cas. 524, and in Burke vs. Sydney, 1895, L. R., App. Cas.

In the Pictou case Lord Hobhouse says, page 520: "Whatever general views are stated in that (the Bathurst) case must, as in all cases, be taken with reference to the facts, and it is clear to their Lordships that the governing fact in the Bathurst case is that the conduct complained of was not in the view of the committee nonfeasance, but misfeasance. In delivering the judgment of the committee Sir Barnes Peacock expressly says that they do not decide whether the legislature threw upon the municipality the obligation of keeping in good repair the works it took over. The ground of the decision was that the municipality having, under the powers conferred upon them, constructed a drain, which unless kept in proper condition would cause a nuisance to the highway, were bound to keep this artificial work in such a condition that no nuisance should be caused, and that if owing to their failure to do this the highway was subsided and a nuisance was created, they were as much liable for a misfeasance as if they had by their direct act made the hole in the road which constituted a nuisance to the highway." And in the Bourke case, whilst upholding the principle that public corporations are not, in the absence of legislative enactment, liable in damages for mere nonrepair of a highway, the Bathurst case is explained as enforcing liability in respect of misfeasance in causing a nuisance in a highway, and the Lord Chancellor, after elaborately defining the facts and principles of the Bathurst case, says p. 441: "The ratio decidendi was that the defendants had caused a nuisance in the highway. It was entirely independent of the questions whether there was an obligation to keep the highway in repair and whether any person injured by the breach of such duty could maintain an action. The case was not treated as one of mere nonfeasance, and, indeed, it was not so. The defendants had created a nuisance. Having made the drain and failed to keep it in such a condition that the road would not fall into it, they were just as much liable as if they had made the excavation without constructing the drain, and the road had consequently subsided and become founderous. * * * The owner of land adjoining a highway has been held liable to an action if he digs a hole so close to the highway as to create a nuisance to passengers lawfully passing along it. Why should the municipality be less liable than any other person in respect of the same acts, merely because the road is vested in them, and certain powers or duties in relation to its repair are committed to them? * * * There can be no doubt then that some of the dicta in Bathurst vs. Macpherson can scarcely be supported. * * * But they do not affect the authority of that case, for the decision rests on grounds independent of them. The conclusion being arrived at that the defendants had caused a nuisance to the highway for which they could be indicted, it cannot be doubted that it was properly decided that the action lay."

It is impossible to my mind to apply the principles of these decisions to the present case and not to hold the defendants liable. The question is not the narrow one, as urged on behalf of the corporation, "Did the hole bored by Cox cause the accident?" but is the more comprehensive one, "Did the defendants produce a nuisance in the highway, and so cause the accident?" and such nuisance may arise, as I have already shown, not merely from some one act of commission but from a combination of acts and omissions, and then the question is, "Does this combination, or do any of its incidents, give a cause of action?" in determining which question we must bear in mind the definition of a cause of action, as given in Jackson vs. Spittall, L.R. 5 C.P., 542 (and incidentally applied by Lord Hobhouse in the Pictou case, p. 520, where he speaks of "the conduct complained of" as "that act on the part of the defendant which gives the plaintiff his cause of complaint)." Now, what is the cause of complaint here? Not simply that the corporation bored the hole, any more than the raising the highway in the Greenhalgh case, or the making of barrel drain in the Bathurst case. These were proper and laudable undertakings no doubt, the same as the boring of the hole by Cox may have been a wise measure of precaution against the rotting of a wooden beam the life of which was becoming exhausted. But, as in the Davis vs. Curling, Pendlebury vs. Greenhalgh, Foreman vs. Canterbury, and Bathurst vs. Macpherson cases, the cause of complaint was the failure to take proper steps to prevent the artificial work becoming a nuisance in the highway, so here the plaintiff's complaint is that after having bored the hole the corporation did not take precautions against the increased rotting of a hole which must become saturated with water in wet weather. When the jury find that the boring of the hole added largely to the rottenness of the beam they mean also, I think, or, if not, we are bound to infer, that the beam would not have rotted so quickly, that is to say, would have lasted longer had it not been for the boring, in other words, that the causa causans of the accident was the failure to take timely precautions against the increased rotting produced by the hole; thus tracing the immediate cause of the accident to the neglected hole made by the corporation. The breaking of the beam was the accident, the rottenness of the beam caused the breaking, and the act of the corporation in boring the hole produced the rottenness.

The evidence also shows that in the summer of 1892 the corporation were warned of the dangerous condition of the bridge, and that they then closed it to tramway traffic, as it was their undoubted right and duty to do. They were recommended by their engineer to put in iron beams throughout, and, had they done so, the accident in human probability would not have occurred, as it is shown by the evidence that the iron work of the bridge on which the iron beams would have depended had a factor of safety of eleven, which, even with the heavy traffic of the cars, had never been reached or nearly reached. The corporation, however, discarded the advice of their engineer, and, having simply put in a few new wooden stringers, after a short delay themselves opened the bridge to traffic, thus lulling the public into security and inviting them into a dangerous trap.

The learned judge whose decision is under appeal is of opinion that these undisputed facts of themselves, irrespective of the particular findings of the jury entitle the plaintiff to recover, and it may become necessary in another action, or in a higher court to decide whether his view is not the correct one.

In this case, however, I am satisfied that upon the findings of the jury, and the facts necessarily to be inferred therefrom, the plaintiff is entitled to judgment, unless there be anything in the defendants' point that the defendants in repairing the bridge, closing it, and then throwing it open, acted ultra vires for want of a by-law, but this objection is, I think, met by the case of Bernardien vs. North Dufferin, 19 S. C. R., 538. Moreover, I think there was a by-law, if one was wanted, in No. 162, authorizing the expenditure of $25,000 on the repair of roads and bridges.

I am therefore of opinion that the appeal fails, and should be dismissed with costs.

MR. JUSTICE DRAKE.

The point of this case is whether or not the boring of an auger hole in an old beam of the bridge in 1892 is sufficient evidence of misfeasance to render the municipality of Victoria liable for the loss of the plaintiff's husband owing to a most disastrous accident which happened by the collapse of the bridge in question on the 26th of May, 1896. The causes which led to the accident were many, and to no one single cause can it be truly said that it, and it alone, was the primary cause of the disaster.

The bridge was built by the provincial government in 1885, and it never was a structure intended to bear very heavy loads. Apparently it had been calculated to carry a weight of ten tons with a factor of safety of four and one-half, which means that it could bear forty-five tons. It was a wooden structure raised on concrete piles, and had two spans of 150 feet each, which were supported by an overhead truss. The iron rods connecting the floor of the bridge to the compression arc of the truss were estimated to have a factor of safety of eleven, and were described as the hanger irons, and two holes were bored through the floor beams on each side, in which a piece of iron like a gigantic staple was inserted, and the hanger irons were fastened by pins to this staple, and it would therefore require a great deal larger weight to be placed on the bridge than the evidence shews was actually done, before the iron work would be affected beyond the limit of safety, which is roughly spoken of as the breaking strain.

It is not suggested that it was the fracture of the iron work was the cause of the accident, but the breaking of a wooden floor beam. The bridge was handed over to the municipality in 1891. At the time of such handing over, the Electric Tramway had been granted the right to use the bridge, and they had laid down their rails along the northern side of the bridge, and not in the middle. The central span, which gave way, had seven floor beams which were each supported by iron hangers to the upper arc of the truss.

In 1892 the municipality had the bridge examined, and replaced five of the floor beams of the span which collapsed, with new timber, and other repairs were made; a new flooring was laid over, and longitudinal wooden sleepers for the rails of the tram line. The mode in which the examination of the timbers was made was by boring a hole in the timber with an inch and a quarter auger to a depth of seven inches, and stopping up the resulting cavity with oakum, driven in with sticks. This is said to be a very improper mode of examination, as the caulking is liable after a time to absorb water and induce decay. The floor beams extended on each side of the bridge some five feet beyond the place where the hanger irons and lateral rods were inserted, and this five feet was planked and used as a footway for passengers outside the bridge proper.

The holes bored for the staples went entirely through the beam. The staples were made of square iron, and were fastened underneath the beam by nuts screwed to an iron plate, and two other holes were bored at the side into which lateral iron rods were inserted. All these four holes were within twelve inches of each other, and the test hole was made within a few inches of the vertical holes. It was pointed out that the life of wood was not more than eight to ten years, placed in a similar position and subject to same weather. The holes, under any circumstances, would induce decay from the presence of damp and rain, and decay is present in the other old beams of the bridge where there are no holes bored. The beam which is called No. 3, and one called No. 7, were two beams which had never been renewed, and had been eleven years in the bridge. Why they were not renewed when the others were is not explained.

The evidence discloses the fact that beam No. 3 broke through the hanger holes on the side of the bridge where the rails were laid. The wood was so rotten that the iron plate to which the hanger irons were screwed was pulled completely through the beam, the very strongest evidence that there was no sound wood left in that part of the beam. On the day in question a heavily loaded car was passing over the span, and the estimated load was eighteen to twenty tons on the span which collapsed. As before remarked, it was not any one cause that led to the accident, but a variety of causes all operating together, general decay and overloading. The resulting accident must have happened with the ordinary traffic at no distant date, unless the rotten timbers were taken out and replaced by sound. The boring of the floor beam was found by the jury to have increased the decay, but it did not initiate it. The neglect of the corporation in not removing this beam or in testing its soundness in a rough and ready manner, are not such acts of misfeasance as will render the corporation liable.

Mr. Taylor strongly argued that the whole bridge was originally too slight in its construction, and that the specifications were not complied with, owing to neglect by the contractors. He especially referred to the evidence relating to weldless iron, which was called for by the specifications, and for which welded iron was used. This difference would render the calculations as to the factor of safety uncertain; but it was not shown that the bridge fell owing to defects in the iron, but owing to the floor beam. It therefore is not of importance to discuss how far the factor of safety was reduced as regards the iron work by the neglect of the contractors. One thing I think is clear, that the elastic limit of the iron was never reached by any load placed on the bridge of which we have evidence.

But, after all, the defendants occupy a position very different from a railway company or other corporation formed for private objects. They are the governing body, selected out of the whole body of corporators to execute such duties as are imposed on them by their charter of incorporation, and to expend the rates and taxes levied on the corporators in the repair of the public property as far as the funds permit. If they permit the public works to fall into decay from any cause, they are not legally responsible, but if loss or damage ensues owing to this neglect they are greatly to be blamed. They might have closed the bridge to traffic, or taken other steps which would have rendered the casualty impossible.

The corporation may have adopted a method of ascertaining the condition of the beams which was unusual, but that alone did not affect the strength of the beam, as it lasted for four and one half years. It doubtless increased the decay, as the jury found, but that falls into the category of want of repair. It is a curious fact that in another action for the same accident, tried shortly before this one, the jury found the cause of the accident was the breaking of a stirrup iron—that is, an iron which was fastened round the floor beam, and to which the hangers were attached. These stirrups were placed in position by the corporation round the new beams they put in, instead of boring the beams and inserting the iron hangers, as was done by the original builders.

The chief evidence in support of the plaintiff's case was furnished by the engineer of the original contractors for the construction of the bridge, and it was not unreasonable for him to endeavor to combat the theory that the original design and construction were faulty, and to place the fault elsewhere. The testing of the beams was a proper thing to do, and no injury resulted from that, but the subsequent breaking of the beam was found to be the cause of the accident. The beam doubtless broke owing to the weight placed on it, but this comes back to the same result—want of repair.

If there was no duty cast upon the corporation to keep the bridge in repair, the testing of the condition of the bridge, or the repair of it, cannot of itself, be held to be improper acts which will create a liability that did not exist before. The principle which Lord Blackburn laid down in Geddes vs. proprietors of the Bann Reservoir, 2 App. Cas. 430, that an action lies for doing that which the legislature has authorized, if not done in a negligent manner; and if by reasonable exercise of the powers given by statute the damage could be prevented, it is within the rule of negligence not to make such a reasonable exercise of these powers, does not apply to municipal corporations, as it would render them liable for every act of negligence or omission, which they might have prevented by a reasonable exercise of their powers.

The Bathurst case, 4 App. Cas. 256, is cited as the governing case of misfeasance. The ground of that decision is that in constructing a drain, which the municipality had power to do, they were bound to keep this artificial work in such a condition that no nuisance should be caused. It might be contended that a bridge was an artificial work which the municipality were bound to keep in repair, but the Municipality of Pictou vs. Geldert (1893), App. Cas., 524, seems to be in conflict with the Bathurst case, as there is but a small distinction between the approaches to the bridge and the bridge itself, and if in the former case the corporation are not liable, I fail to see how they can be made liable in the latter.

The whole matter comes back to the same point: Unless the act of examining the bridge by the auger was an act of misfeasance, which I do not think it was, the acts of the corporation in not removing the beam were nonfeasance only, and such being the case the defendants are entitled to judgment, but, under the circumstances, without costs.

DESPISE NO MESSENGER.

In a great monarchy no subject can tell what other man may or may not be a messenger from the king. Angels of mercy seldom carry harps and arrive amidst radiant light and a vast flapping of wings. It may be a little child who shall bring you the tidings for good news or, as in the case of Mr. Charlotte Davis, it may be a quiet lady who drops in to make an ordinary friendly call.

And help was badly needed, as it always is when pain and illness crush these frail bodies of ours and weaken and bow before the swollen stream. Referring to the old lady's call Mrs. Davis draws aside the curtain from an experience of the summer of 1878. She says: "I fell into a condition that was strange and new to me. I didn't know how to account for it, nor could I tell what it was going to lead to. I had always a bad taste in the mouth, and was constantly retching and spitting up a sour fluid. The sense and feeling of it were horrible. My appetite failed until food had no attraction for me. Even after taking the least morsel I had great pain at the chest and under the shoulder blades. But the complaint seemed to be seated more particularly in the stomach. There the pain was very keen and violent. Sometimes it felt like a knife cutting me asunder. I got no rest day or night, and was confined to my bed for weeks together. I nauseated as I could take no solid nourishment. I grew weaker and weaker as the weary time dragged by. Indeed my only food was milk and soda water."

[We may remark at this point that Mrs. Davis's entire digestive system was, at the time she spoke of, dangerously deranged. The failure of the appetite was a signal indicating that the presence of food in the stomach could not be tolerated. As it could not be digested it would only serve to aggravate the inflammation that was raging there. Such a state of things is bad as possible. The very source of all power and life was virtually paralized. We must eat in order to live, and yet—in such a case—to eat is only to invite additional suffering and to hasten for a more speedy death. Hence the terror of that ailment, which some silly people (*who have never had it*) speak of as "only an attack of indigestion and dyspepsia." Would they allude to an inhabited dwelling wrapped in flames as "only a house on fire?"]

Mrs. Davis, and plenty of others that we know are able to rebuke that addlepated sort of talk.

She continues: "The doctor who attended me said I had inflammation, caused by gall stones."

[Very likely. Gall stones are composed of bile sand, which is carried into the gall bladder and then adheres until the larger stones or masses are formed. The bile has stagnated, owing to the poisons from the stomach acting on the liver, until this painful and dangerous complication results. In other words, gall stones means billiousness, and billiousness means indigestion and dyspepsia.]

But let us listen again to the lady: "I lay in great agony," she says "week after week, during which time I passed two gall stones. The doctor's treatment gave me no relief, and what I suffered for over a year is indescribable. One day *an old lady called at my house*, and seeing my condition, strongly urged me to take Mother Seigel's Curative Syrup. I said 'Yes, of course, I'll take anything that will help me.' After the first bottle I passed a third stone, but *this time without pain*. I kept on with the Syrup and was soon as well as ever. Since that time, now fourteen years ago, I have kept in good health and perfectly free from my old ailment. I will answer inquiries from any sufferer. Yours, etc (Signed) Charlotte Davis, 8 Edithna street, Stockwell, London, September 27th, 1898."

"The first bringer of unwelcome news," says Shakespeare "hath but a losing office." Quite true, but the messenger who tells of help and rescue wins a better place in our memory. Does he not? Yes, say all of us.

SMALLPOX IN MONTREAL.

A Solitary Case Develops Among the Pupils of St. Catharines Pensionate.

Montreal, Nov. 3.—The Pensionate at St. Catharines, a boarding school for young ladies, and maintained by sisters of the congregation, has been placed in quarantine, a case of smallpox having developed in one of the boarders. The patient has been removed to the civic hospital.

CARTER'S LITTLE LIVER PILLS.

CURE

Sick Headache and relieve all the troubles incident to a bilious state of the system, such as Dizziness, Nausea, Drowsiness, Distress after eating, Pain in the Side, &c. While their most remarkable success has been shown in curing

SICK

Headache, yet Carter's Little Liver Pills are equally valuable in Constipation, curing and preventing this annoying complaint, while they also correct all disorders of the stomach, stimulate the liver and regulate the bowels. Even if they only cured

HEAD

Ache they would be almost priceless to those who suffer from this distressing complaint; but fortunately their goodness does not end here, and those who once try them will find these little pills valuable in so many ways that they will not be willing to do without them. But after all sick head

ACHE

is the bane of so many lives that here is where we make our great boast. Our pills cure it while others do not.

Carter's Little Liver Pills are very small and very easy to take. One or two pills make a dose. They are strictly vegetable and do not gripe or purge, but by their gentle action please all who use them. In vials at 25 cents; five for $1. Sold everywhere, or sent by mail.

CARTER MEDICINE CO., New York.

Small Pill. Small Dose. Small Price.

MR. SIFTON IN VANCOUVER.

Favorably Disposed Towards Directing the Yukon Trade to Canadian Cities.

Vancouver, Nov. 4.—(Special)—Hon. Mr. Sifton met the Board of Trade at 11 o'clock to-day and talked to a large number of business men until 12:30. His remarks were similar to those addressed to the members of the Board of Trade at Victoria. He spoke of the excellent police service which is being inaugurated and the impossibility of dutiable goods escaping the customs officers. Mail service will be established along one of the trails with 50-mile posts, to commence in about two months and continue all winter, from Dawson City out. He said it is hard to convince Eastern M.P.'s, some of whom perhaps from constituencies that have no railway connection, that railways costing $2,000,000 or $3,000,000 are necessary out here. He could not promise that Vancouver would be the point of departure for mails, etc., for the Yukon. The best interests of the country would be considered in this matter. The government would, he thought, favorably consider the proposition to require miner's licenses for the Yukon. The government will guard the deposit vaults where gold dust can be stored and provide escort for those taking gold out of the country; they will also at an early date appoint agents who will without cost give drafts on Canadian banking houses for gold dust. In regard to advertising the government are preparing a pamphlet and when it is completed no miner will have to ask any question about the Yukon. Fifty thousand will be the first edition, but the government could not advertise any particular city as suggested.

Mr. Alexander in answer to the suggestion that it would be difficult for Vancouver and Victoria to cope with the great outfitting demand which will come next spring said, that in the old Cariboo days Victoria successfully handled the trade though there was then only one mail a month.

NO CABINET MINISTER.

Senator McInnes' Removal From Politics Said to Mean That for British Columbia.

Vancouver, Nov. 4.—(Special)—Both the newspapers here refer with approval to the proposed appointment of Senator McInnes to be Lieutenant-Governor. The News-Advertiser reports as an accomplished fact also the consequent appointment of Mr. Wm. Templeman of Victoria to the Senate, and says:

"There is no doubt that Mr. Templeman's appointment is one which will meet the approval of the large majority of the Liberals in British Columbia. Strong representations were made to the premier from Liberals in all parts of the province urging that Mr. Templeman should be the successor of Lieutenant-Governor Dewdney, and our correspondent at Ottawa states that Mr. Templeman could have had the appointment had he insisted on it. But in the interests of the party, and at the solicitation of Sir Wilfrid Laurier, Mr. Templeman has accepted the seat in the Senate, and thus made possible the appointment of Mr. McInnes to the governorship. With a large number of Conservatives in British Columbia Mr. Templeman's appointment to the Senate will also be popular."

"It is no secret that the Senator considered that he had a claim for a seat in the cabinet, as a representative of British Columbia in the government, as Sir Wilfrid Laurier, when in Victoria in 1894, declared that it was only right that this province should be represented in the cabinet. But as that body is already much larger—in the opinion even of many Liberals—than the needs of the country demand, British Columbia is relegated to a back seat in that respect."

The World also accepts Senator McInnes' appointment as an indication that cabinet representation for British Columbia is further postponed, its despatch saying: "It is well known, of course, that he prefers a cabinet portfolio, but rather than increase the number of ministers Sir Wilfrid Laurier is pledged to decrease the number." The World says editorially: "The new incumbent will not be sworn in until the arrival of the royal proclamation calling him to the exalted office the duties of which he will discharge with an honesty of purpose and a devoted zeal which will commend him to everyone."

"Dem autumn woods," said Uncle Eben "kinder 'minds me ob folks. Dey's puttin' on heaps o' finery now, an' when de col' weathuh comes dey won' hab no clo'es at all."—Washington Star.

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NOTICE.

Notice is hereby given that two months after date I intend to apply to the Chief Commissioner of Lands and Works for permission to purchase 160 acres of land, being unsurveyed, unoccupied, and unreserved crown lands, situate in the District of Cassiar, and described as follows;—Commencing at a post situate on the west shore of Teslin Lake and about 8 chains north from the "O" post the said place of commencement containing occupation notice, thence west 40 chains, thence south 40 chains, thence east 40 chains, to the lake shore, thence northerly along the lake shore to place of commencement.

Dated the 25th day of October, 18 7.

oc28 J. P. CALLBREATH.

NOTICE is hereby given that two (2) months after date I intend to apply to the Chief Commissioner of Lands and Works for permission to purchase six hundred and forty (640) acres of land in Cassiar District, described as follows:—Commencing at a northeast corner post planted at high water mark on west shore of South Arm of Teslin Lake, in a line west of southfrom narrow channel leading to main lake and about 80 chains southerly from post planted at high water mark on west shore of south Arm of Teslin Lake, marked "James Dunsmuir's land"; thence west 80 chains; thence south 80 chains; thence east 80 chains, more or less, to high water mark on west shore of South Arm of Teslin Lake; thence north along the shore of said arm of lake 80 chains, more or less, to point of commencement.

A. BOYD.

13th September, 1897. oc24

NOTICE is hereby given that sixty days after date, I intend to make application to the Chief Commissioner of Lands and Works for permission to purchase the following described tract of land situated at the head of Alice Arm Coast District, and described as follows: Commencing at a post marked R.G.C. situated at the S.E. corner of Nass river Indian reserve, thence North 40 chains, following the eastern boundary of said reserve, thence East 40 chains, thence South 40 chains, to post marked S. E. thence West 40 chains, along shore line to point of commencement, containing one hundred and sixty acres more or less.

Dated this 10th day of October, 1897, at Alice Arm, B.C. R. G. CUNNINGHAM.

NOTICE is hereby given that sixty days after date I intend to make application to the Chief Commissioner of Land & Works for permission to purchase the following described tract of land, situated on the northeastern of Alice Arm, Coast District, and described as follows: Commencing at a post marked J.C., near the N.W. corner post of R. Cunningham's claim, thence east 40 chains, thence north 40 chains, thence west 40, thence south following shore line to point of commencement, containing one hundred and sixty acres more or less

Dated at Alice Arm, B.C., this 10th day of October, 1897. JOHN CUNNINGHAM.

NOTICE is hereby given that sixty days after date we will make application to the Chief Commissioner of Lands and Works for permission to purchase the following described tract of land:—Commencing at a stake at the head of Portland Inlet on the left hand bank proper near Lion point and marked W. E C.'s, N. W. corner; thence East forty chains; thence South forty chains; thence West to the bank of the Inlet; thence following the shore line to the point of commencement and containing one hundred and sixty acres more or less.

Port Simpson, Sept. 10th, 1897.

W. E. COLLISON, A. C. MURRAY.

se25

NOTICE is hereby given that sixty (60) days after date, I intend to apply to the Chief Commissioner of Lands and Works, for permission to purchase the following described land, situated about forty miles from Telegraph Creek on the Teslin Lake trail at the foot of a hill known as Kakets hill or Mountain, British Columbia:—Commencing at a post marked J.S. Bowker's initial, S. E. corner post and dated October 1st, 1897, and running thence 80 chains N., thence 40 chains E., thence 80 chains S., thence 40 chains W., to Initial Post—320 acres more or less. J. S. BOWKER.

October, 29th, 1897. no1

NOTICE is hereby given that sixty (60) days after date, I intend to apply to the Chief Commissioner of Lands and Works, for permission to purchase the following described land, situated on the Stikine river, British Columbia, about three miles and a half (3½) from Telegraph Creek: Commencing at a post marked J. S Bowker's, Jr., N.E. corner post and dated October 4th, 1897, and initial post and running thence 40 chains West, thence 80 chains South, thence 40 chains E. more or less, to river edge, thence back to initial post along river bank, 320 acres more or less. J. S. BOWKER, Jr.

October 29th, 1897. no1

NOTICE is hereby given that sixty (60) days after date, I intend to apply to the Chief Commissioner of Lands and Works for permission to purchase the following described land: Situated on the Stickeen river, British Columbia, about three (3) miles S. from Telegraph Creek, commencing at a post marked R. Hyland's S.E corner and initial post and dated October 4th, 1897, and running thence 40 chains West, thence 40 chains North, thence 40 chains more or less, to river bank, thence 40 chains more or less along river bank to initial post. 160 acres more or less. R. HYLAND, Sr.

October 29th, 1897. no1

NOTICE is hereby given that sixty (60) days after date I intend to apply to the Chief Commissioner of Lands and Works for permission to purchase the following described land, situated on the East shore of Teslin Lake, British Columbia, about one and one-half miles from the head of the Lake:—Commencing at a post marked J. Hyland's S W. and Initial Post, dated September 24th, 1897, running thence 40 chains East, thence 80 chains North, thence 40 chains more or less to edge of Lake, thence back to Initial Post, 320 acres more or less.

J. HYLAND.

October 29th, 1897. no1

NOTICE is hereby given that sixty (60) days after date, I intend to apply to the Chief Commissioner of Lands and Works for permission to purcease the following described land, situated on the Stickeen river, B.C., about thirty miles South of Telegraph Creek, at the mouth of a river known as Clear Water: Commencing at a post marked A. B. Cotton's N.E. corner post and dated October 15th, 1897, and running thence 40 chains W., thence 80 chains S., thence 40 chains more or less to river bank, thence 80 chains more or less, back to initial post, along river bank, 320 acres more or less

A. B. COTTON.

October 28th, 1897. no1

IT IS my intention, 60 days after date to apply for a lease of 160 acres of land situate in Upper Chilcoten, described as follows: Commencing at E. D. Sheringham's N.W. corner post, thence south 20 chains, thence west 80 chains, thence north 20 chains, thence east 20 chains, to point of commencement.

oc25 L. ELKINS.

I HEREBY give notice that it is my intention to apply for a lease of 160 acres of land, situate in the Upper Chilcoten, on the Punzeen Lake Creek, described as follows: Commencing at a stake placed on the N.E. side of the creek, about three miles from F. T. Troughton's house, thence south 20 chains, thence west 80 chains, thence north 20 chains, thence east 80 chains, to point of commencement.

oc25 EDMUND ELKINS.

NEST EGG & FIREFLY GOLD MINING CO. Ld. Ly.—Notice is hereby given that a special general meeting of the shareholders of the above company will be held at the Board of Trade Rooms, Victoria, B.C., on the 3rd December, 1897, at 3 p.m., to consider the following amongst other matters, viz.: 1. Raising a loan by way of Debentures or otherwise to provide for the indebtedness of the company and for the further development of the property. 2. Authorising the Trustees to sell or bond the company's assets at an upset price. By order.

A. K. MUNRO, Sec'y-Treas.

no1