and the Marine Agency Company.

I have the honour to be

Sir.

Your obedient Servant,

(Sgd.) ARTHUR MEWS,

Deputy Colonial Secretary.

main as at present

J. J. Mahoney, Esq.,

City Clerk.

erick R. Emerson.

Correspondence

St. John's, Sept. 21, 1925. Evening Telegram. Sir.-Enclosed please find East.

on to omit, if you choose, all the from the earliest times. except the title and the following

ction 5, sub-Section 1 (a). ection 5, sub-Section 7. ction 5, sub-Section 17.

tion 6, sub-Section 1. ion 6. sub-Section 2 the above sections I have marked opy of the Bill sent to you. stice to His Excellency and his a hint or suggestion of comwith respect to the subject of

e also sent copies of this letthe Daily News and the Fish-Yours faithfully,

J. A. W. W. McNEILY.

St. John's. Aug. 21, 1925. Sir William Allardyce, K.C.M.G., Governor.

please your Excellency. ial action thereon

ome time ago I noticed that a large ion of the public navigable ters of the principal part of the our of St. John's, at the rear of remises of W. & G. Rendell and wn to me. Upon making enquiry Limited. who was doing this work I disred that it was being done by W.

knowing that such an enclosure of of the public. vigable water could not be made hout special authority by Act of Legislature and being aware that such act had been passed, I called B.E.S. Dunfield Esq., attention of the Municipal Courto the obstruction of the public

As a result of my action the matter as taken up by the Municipal Counwith the Executive Council. it was then discovered that the aurity under which the parties doing

the waters of the harbour. authority whatever for the piling on behalf of the public. of a space of about 125 ft. by 60 ft. the harbour was adduced and the ecutive Government, as I under-

The Municipal Council proceeded gainst the parties in relation to the able franchise over public property they were of public advantage.

Mr. Dunfield, my solicitor and the At- | ceed.

A.W.W. McNelly, Barristar, to call As a matter of fairness to these par- it to you at this office some time next sive works. Four official stiention to the following week.

In the light of these facts I submit

week.

In the light of these facts I submit

that Mr. Higgins the present Attorney Est. 1871. 464 Water St. Box 447. FOR ACHES AND PAINS USE MIN.

that Mr. Higgins the present Attorney in that Mr. Higgins the present Attorney of Institute is not interest.

Rishop Company whether the parent them copies of this correspondence. company or the subsidiary company | An early answer will oblige. recently incorporated in Newfoundland TO HIS EXCELLENCY THE is not known to my client, acting, as

OVERNOR DY CERTAIN PUBLIC my elfent understands, on behalf of the Marine Agencies Limited, a local shipping company recently incorporated, is building a wharf in the neighbourhood of Gill's Cove, St. John's all correspondence between . This wharf is unquestionably a pub- I find that no work of construction is other purpose, and it may have been

which I think of sufficient pub- words. It involves the appropriation done with the knowledge and apaccest to justify publication. As of a substantial area of public waters, proval of the Government. which constitute the approach from Ltd." is the eastward to Gill's Cove, and also any action by this Department amount of a serious obstruction of the said cove, Yours sincerely, relevant to the subject of the which is and has been a public means ondence, you have my per- of access to the waters of the harbour

I have to point out to you, what is ns, which I think should be familiar to every lawyer and doubtless well known to you, that it is Common Law, well established as such, that appropriation of public waters is a pub- The Hon, the Attorney General, lic nuisance; and this principle-has been carried out in several decisions Dear Sir. of our local Supreme Court relating to the waters of the harbour. There are, as you are aware, various remedies for this state of affairs, the principal day's date received this morning. being criminal indictment and civil action by the Attorney General of his own motion; or similar proceedings in ment in writing to the Municipal his name but upon the relation of Council accepted responsibility for some private complainant. The pro- the extension of the eastern King's per remedy applicable in this case Wharf but disclaimed responsibility seems to be a civil action in the name for the other parts of the nuisance, of the Attorney General ex relations viz., the obstruction of the Cove and of the complainant. I refer you to the the piling in of public navigable case of the Attorney General vs. Shrewsbury Kingsland Bridge

type of proceedings. My client desires to take steps protect the public interest in this matrequest your concurrence in the takconsideration the following the Attorney General, for the nurpose of review in the Supreme Court, and respectfully to request your of putting a stop to the state of a. I note that you say "I can see

fairs above mentioned.

front of a public cove known | ceipt of your communication of the my letters.

Bishop Co., Ltd., or its subsidiary ceive the immediate consideration of may think proper. Bishop, Ltd., for a company re- this Department; and, if I am satisfied y formed and known as the that such is the case the necessary steps will at once be taken on behalf

(Sgd.) W. J. HIGGINS,

City.

The Hon. The Attorney General,

- City. Re Wharf etc., at Gill's Cove. ment to use the eastern King's and note that if you are satisfied that and Fisheries. arf and to make extension thereof the wharf is a public nuisance the

necessary steps will at once be taken I have of course to point out that B. E. S. Dunfield, Esq., encreachment upon public waters or Barrister & Solicitor, public rights of way is, by its very and, disclaimed in a letter to the existence a public nuisance; and there nicipal Council having given any is not in the present case any question mit whatever for this the main as to whether such eneroselment has taken place: it is obvious. Even if it could be argued that on encreachment were actually beneficial to the public the 27th June, covering communicastruction of the public cove which as well as those creating it, it would tion from Mr. J. A. W. W. McNeily, ne falls within their duty, and I still be a public nuisance in the legal with regard to Gill's Cove, Water St. derstand that the parties under- sense of being a thing which must not East. I have the honour to intimate in the Magistrate's Court not to be done without legislative authority. that the same was given consideration truck the cove, but they have con- It is evident that if such were not the at the last meeting of the Executive

hould be given gratis to the Marine I have to point out that my client with the Marine Agency Company by the harbour authorities I de- be given, so that the person desiring to be erected at their own expense, press. mined not to allow this clear to stop the nuisance, who is known as and to be kept in repair by them. each of public right to go unchal- the relator, has the conduct of the pro- The Government granted them the

Neily vs. The Marine Agencies, Ltd." your conditional undertaking to act, I obstruct any public Cove, or to interam instructed to repeat the request fere with its use by the public; this There followed thereupon between that my client be authorized to pro- can only be done by Act of the Legis- before referred to is a local subsidiary

G.W.V.A. Building, concerned are pushing their opera- a week's time, and to this Agreement Dock running into millions upon some July 31, 1925. tiens rapidly shead, and the sconer will be attached a plan, which will basis as yet unknown to the public. The Hon. The Atterney General, they are stepped the less expense they confirm exactly the position as above One or other of the Bishop Companies will be at in removing the structures stated. If you should wish to exam- is also centractor to the Nfid. Light &

A firm of contractors, The W. I. ties I have been instructed to send the King's Wharf would necessarily

Yours truly,

15 August, 1925. Dear Sir.-I beg to acknowledge receipt of yours of the 12th inst. I have made enquiries into the mat-

I, therefore, can see no reason for (Sgd.) W. J. HIGGINS,

B. E. S. Dunfield, Esq., Barrister & Solicitor.

G.W.V.A., Aug. 15, 1925.

Re Gill's Cove.

I have to acknowledge yours of to-In reply I am instructed to say:

1. It is understood that the Governwaters. Your letter of this morning I read to mean that the Government 1882 21 C.D. 752 as illustrating this now takes the position of approving the whole of the nuisance.

2. If this be the case, then the position is that the Government persist ter; and he therefore instructs me to in lending their approval to a public have the horour to submit ofor ing by him of an action in the name of lowing their action to be the subject 3. I note that you say "I can see no

reason for any action by this Department." Action by the Department is (Sgd.) BRIAN DUNFIELD. not asked for; but merely permission to use your name as a formality in an action by and at the costs of my Dear Sir,-I beg to acknowledge re- client. I have made this quite clear in

Gill's Cove was being appropriated 31st, ultime, respecting the wharf be- In view of this answer my client inpiled in by persons then un- ing erected by the Marine Agencies, structs me to say that he undersands your concurrence to be refused, and The claim made in your letter that that he considers himself to be at this wharf is a public nuisance will re- liberty to take such other steps as he

Yours truly, (Sgd.) BRIAN DUNFIELD.

20 August, 1925. Attorney General, the letter sent on behalf of the Government to the Municipal Council, and tracts with the Government of New-

been made. The extension outwards of and Minister of Justice and Protector the party dealing with them. the waterfront of Rendell's premises of the public rights. Dear Sir,-I thank you for your let- had the approval of the Government

> Yours sincerely (Sgd.) W. J. HIGGINS. Attorney General.

Dept. of the Colonial Secretary.

St. John's, Nfld., July 9th, 1925. Sir,-Referring to your letter of sed and built over it nevertheless. rule, many things might be done for Government. I am directed to point sion.

ceedings, and conducts them at his use of this extension for a period of notwithstanding a protest by the St. sual course in such cases is for the objection if not confirmed by the whatever to the Eastern King's Wharf to or protection of the public, a pro- of their clients. rivate citizen to ask permission to Courts is disposed of once for all, as it at present stands, nor to the tection which it is the duty of the law These proposals should be scrutiniza proceeding to prevent a con- has the conduct of the proceedings, provides that a fonce shall be erected | These concessions were made not to nuance of an invasion of public objectors will seldom or never be along the eastern boundary of the a new industry but to a well estabwest is called the Relater and may be ed as effectively as it would have been whatever, is made in the Agreement Financial Post of June 5th, 1925 (copy ral goes as a matter of course and intervene in the public interest to supthe action is entitled the Attorney plement it.

Son that neither the Government nor the Municipal Council has any authorinvestigation of its then franchises and investigation of its former contains and investigation of its then franchises and investigation of its former contains and it

lature. orney General the following, cor- I need hardly point out to you the The Agreement in this matter or other of these Companies has unnecessity of promptitude. The parties will be ready for execution in about dertaken public work upon the Dry ine this plan, I shall be glad to show Power Co., Ltd., for some very exten-

obstruct the entrance, but this is a matter that does not enter into the the public are involved and that he Agreement as between the Govern- must be relieved of his office, and also (Sgd.) BRIAN DUNFIELD. ment and the Company, Presumally, his seat in the Executive Council.

dispute as being what is ordinarily cellency's predecessor Sir Herbert ter of the erections complained of, and ited area, really unfitted it for any ent case, particularly in so far as the of and His Excellency the Gover- He nulsance in the legal sense of those in evidence other than what has been from that viewpoint that the Com- the Solicitors for the Contractors for

aspect of the matter. The question, one between the Municipal Council spirit of malice nor do I act at the The Government thought it well to not inspired by nor in collusion with sider necessary in the premises. The dinary protection of his rights. I roment have guarded the use of should not take my present course if ed or threatened into improprieties

The only effect of my protest and to them. They must "play fair." action is this matter appears to have I have taken no part in party polibeen to speed up the work of con- tics since Sir Robert Bond retired struction. Perusal of the Records at from public life some seventeen years the Registry of Companies will show ago. I have never sought or desired that the Marine Agencies Ltd. was in- patronage from any political party for

son on the 12th day of June 1925. The What I am doing I do at the cost of signatories to the Memorandum and many friendships, particularly those of Articles of Association are Olaf Ol- the Hon, the Attorney General and son, Victor Sydney Bennett and Fred- Mr. Hunt with whom my personal and professional relations for the past fif-The W. J. Bishop Ltd. was incor- teen or twenty years have been most orated on the 13th day of April, 1925. | cordial, and I might almost say inti-The signatories to the Memorandum mate. I attack not individuals but a and Articles of Association are Joseph principle which if allowed to persist S. Lee, Charles E. Hunt and Frederick means Government for the benefit of the rulers and not Government for

The Minister of Justice and Attor- the people. ney General Hon. W. J. Higgins is the It may be asked why I have suddensenior member of the firm of Higgins, ly seen fit to take up this unpleasant Hunt & Emerson, Charles E. Hunt, and distasteful task. As to that let me signatory to the Memorandum and say frankly that as a solicitor of some Articles of Association of W. I. Bis- seniority I am, in common with other hop, Ltd., is also a partner in the firm practitioners not associated with poliof Higgins. Hunt & Emerson, and is tics, subjected to an unfair profession-Solicitor or Law Clerk to the House al competition, a competition improof Assembly. Frederick R. Emerson perly weighed with the influence of is a signatory to the Memorandum and public office.

above Companies, and a Junior partner with my general and growing dislike in the firm of Higgins, Hunt & Emer- as a citizen to the recent trend of matters of the kind referred to.

W. I. Bishop Co., Ltd., or W. I. Bis-Dear Sir.—Replying to yours of the hop, Ltd., their subsidiary (owing to been moved to action I take my stand, 15th inst. I have obtained a copy of lack of information I know not which) as I am entitled to do upon the rights are at present engaged in large con- of the public whereof I am a member. for your information, I am enclosing foundland. When the above facts are Excellency can submit or tolerate a considered it must be clear that the position in relation to the legal ad-The place under discussion then was interest of the Hon. Mr. Higgins as visors of your Government which a the section between Rendell's prem- a member of the firm of Higgins, Hunt private client would not tolerate in ises and the King's Wharf, and over & Emerson in this case clearly clash- any case where there was an opposithis, I understand, no erections have es with his duty as Attorney General tion between his interests and those of

I regret to have to point out that torney General has committed an unter of August 4th, on the above matter, through the Department of Marine this position is not one which can be precedented breach of the principles regarded as an accidental or isolated which I consider should govern his ofcase. For example: The Newfound- fice; but this breach of principle is beland Light and Power Co. was incor- coming yearly less of a technical and porated on the 17th day of February, more of a practical and substantial 1924 by the firm of Higgins, Hunt & grievance in the same degree as the Emerson. The incorporators and sole Government is, unfortunately as I members and shareholders appearing think rapidly growing from a mere in the Registry of Companies at pres- collector and expender of taxes into a ent are W. J. Higgins, Charles E. grantor of and participator in large Hunt and F. R. Emerson. Mr. Hig- public concessions and a factor in the gins appears as President and Mr. actual commercial life of the Colony, Hunt as Secretary of this Company. an employer of commercial non-offi-This Company immediately proceeded cial servants in large numbers and to apply for very wide rights and con- the controller of business enterprises.

The bill was eventually put through During the past few years, large, the Legislature under suspended rules powerful and wealthy concerns have General the opportunity of knowing come into this country and entered in-Upon looking into the law I found own, instead of at the public's, ex- thirty years, at an annual rental of John's Municipal Council and even as to business relations with Governat it was practically impossible for pense and risk. This old and sound \$200.00, subject to the finally passed it contains very large ments from time to time. Their proin virtue of my position as a pri- practice has the result that as the party Government, whenever required for concessions to the Company in the way posals are made and drafted by lawate citizen to take proceedings of my objecting, having conduct of the pro- public purposes, to acquire the use of remission of duties and in the way yers and others of the highest skill official answer and action in the matown mere motion to restrain a conceedings, can adduce all the evidence of the same on ferty-eight hours noof a right to charge increased fares, and experience, who have in view, as
ter. nuance of this unlawful act. The and all the arguments he pleases, his tice. The Company gets no right but without corresponding concession is proper for them, only the advantage

sats. The person making the re- satisfied that the nuisance was attack- present King's Wharf. No reference, lished company which according to the experts employed on the other stde. Occasioned by his action. In such thorough, the Attorney General, in Gill's Cove, and into which the sewer of \$151,116 for eight years. The unless the making the proposals to the Government.

WATCHES.

of the W. I. Bishop Co., Ltd., and one

Dock running into millions upon some

In the light of these facts I submit

W. & R. ENGLISH.

General and Minister of Justice is not

ment and the Company, Presumally, his seat in the Executive Council.

in making their plans, the Company did not consider the small section in Movine from his ministry by your Exdiance as being what is ordinarily cellency's predecessor. Sir Horbert

In making this demand I can honesttherefore, in respect of Gill's Cove, is ly say that I am not actuated by any lay all the facts as above before the any politicians, partisans of either the King's Wharf for the public, I did not feel fully justified in what which will in all other respects re- I am doing and ready to take personal responsibility for it. I am no enemy of corporations or large business interests. I recognize their value and place in the order of things. They neust not on the one hand be frightensuch as I have called attention to; on the other hand they must not from the motives of cupidity be willing parties

corporated by Higgins, Hunt & Emer- myself nor do I now.

Articles of Association of both of the This motive may have combined

However, be that as it may, having The question is then whether Your

And while upon this line of thought

I enclose copy of the original bill let me remark that in the present proposed to be submitted by them to case the Government is partly assistthe House of Assembly at its last ses- ing and partly protecting the Marine Not being satisfied that such a valprivate benefit under the claim that
done is to enter into an Agreement to notice to the public of private bills

The Rules of the House with regard
poses giving an ample subvention to a
done is to enter into an Agreement to notice to the public of private bills

commercial enterprise which is about gencies, Ltd., and knowing that in has requested that he be given author- Ltd., permitting this Company to put have been in several other cases this es in the same line. There is no justiredinary cases encreasement upon the ization to proceed in the Attorney an extension of about forty feet to the harbour has been jeal- General's name; and that it is usual the coutside of the Eastern portion of the King's Wharf. This extension is protest made by me in the public and a least the new enterprise pays full the King's Wharf. This extension is protest made by me in the public value for what it is given or what it

se the name of the Attorney General whereas if a Government Department entrance thereen; and, the Agreement officers of the Crown to consider. ed on becalf of this country with the consideration has received from the equired by the Attorney General to by themselves. On the other hand, if to the place immediately to the eastdertake responsibility for all costs the relator,s action is not sufficiently ward, which has been referred to as shown a net average annual earning indirectly remuneration from the part-

partial practitioner would be able to

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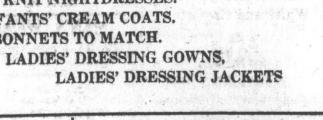


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were disregarded in this case as they to compete with established business-

contracts which have been entere into by the Governments and given statutory authority within recent years. I have afforded the Attorney that my present course would be taken unless he acceded to my request made in the correspondence.

I have now to ask your Excellency's

I have the honour to be, Your Excellency's obedient servant, (Sgd.) J. A. W. W. McNEILY.

Renaud's (made in France) Face Powder, at STAFFORD'S, 15c. box.—sept2,tf

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