

## THE LETELLIER DESPATCH—NOTES OF CASES.

53 of the Act, the appointment of the Lieutenant-Governor is to be made 'by the Governor-General in Council, by instrument under the Great Seal of Canada,' section 59 provides that 'a Lieutenant-Governor shall hold office during the pleasure of the Governor-General:' and much stress has been laid upon the supposed intention of the Legislature, in thus varying the language of these sections. But it must be remembered that other powers vested in a similar way by the statute in the Governor-General were clearly intended to be, and in practice are, exercised by and with the advice of his Ministers; and though the position of a Governor-General would entitle his views on such a subject as that now under consideration to peculiar weight, yet Her Majesty's Government do not find anything in the circumstances which would justify him in departing in this instance from the general rule, and declining to follow the decided and sustained opinion of his Ministers, who are responsible for the peace and good government of the whole Dominion to the Parliament to which, according to the 59th section of the statute, the cause assigned for the removal of a Lieutenant-Governor must be communicated. Her Majesty's Government therefore can only desire you to request your Ministers again to consider the action to be taken in the case of Mr. Letellier. It will be proper that you should, in the first instance, invite them to inform you whether the views, as expressed in Sir J. A. Macdonald's memorandum, are in any way modified after perusal of this despatch, and after examination of the circumstances now existing, which since the date of that memorandum may have so materially changed as to make it in their opinion no longer necessary for the advantage, good government, or contentment of the Province that so serious a step should be taken as the removal of a Lieutenant-Governor from office. It will, I am confident be clearly borne in mind that it was the spirit and intention of the British North America Act, 1867, that the tenure of the high office of Lieutenant-Governor should, as a rule, endure for the term of years specially mentioned, and that not only should the power of removal never be

exercised, except for grave cause, but that the fact that the political opinion of a Lieutenant-Governor had not been, during his former career, in accordance with those held by any Dominion Ministry, who might happen to succeed to power during his term of office, would afford no reason for its exercise. The political antecedents and present position of nearly all the Lieutenant-Governors now holding office, prove that the correctness of this view has been hitherto recognised in practice; and I cannot doubt that your advisers, from the opinions they have expressed, would be equally ready with the late Government to appreciate the objections to any action which might tend to weaken its influence in the future. I have directed your attention particularly to this point, because it appears to me to be important that, in considering a case which may be referred to hereafter as a precedent, the true constitutional position of a Lieutenant-Governor should be defined. The whole subject may, I am satisfied, now be once more reviewed with advantage, and I cannot but think that the interval which has elapsed (and which has from various causes been unavoidable) may have been useful in affording means for a thorough comprehension of a very complicated question, and in allowing time for the strong feelings on both sides, which, I regret to observe, have been often too bitterly expressed, to subside.

"I have, &c.,

"M. E. HICKS-BEACH.

"The Right Hon. the Marquis of Lorne."

---

NOTES OF CASES.

---

IN THE ONTARIO COURTS, PUBLISHED  
IN ADVANCE, BY ORDER OF THE  
LAW SOCIETY.

---

CHANCERY.

---

Proudfoot, V. C.] [June 10.

LONDON CAN. L. & A. CO. V. PALFORD.

*Trade fixtures as between mortgagor and mortgagee—Subsequent incumbrancers—Proper parties in Master's office.*

*Certain machinery was placed in a factory*