

Encl. in No. 4.

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MINUTE of the Treasury Board of the 11th August 1869, on the INTERCOLONIAL RAILWAY LOAN, and the MINUTE of the Honourable the Privy Council thereon, of 12th August 1869.

COPY of a MINUTE of the Honourable the Privy Council, adopted in Committee on the 12th August 1869.

THE Committee of Council have given their attentive consideration to the annexed Memorandum, dated 11th August instant, from the Honourable the Board of Treasury to whom was referred the Despatch of the Right Honourable Her Majesty's Secretary of State for the Colonies, No. 129, dated 8th July 1869, communicating to your Excellency the opinion of the Law Officers of the Crown in England, and the views of Her Majesty's Government on the subject of the temporary investment of a portion of the moneys raised under the Imperial Guarantee for the construction of the Intercolonial Railway.

The Committee entirely concur in the opinion expressed by the Treasury Board in their said Memorandum, and advise that a copy of that Memorandum and of the present Report be transmitted by your Excellency to Earl Granville, as embodying the views entertained by the Canadian Government on the important subject to which they refer.

MINUTE of the Treasury Board, adopted 11th August 1869.

May it please your Excellency,

THE Treasury Board have had under consideration the Despatch of Earl Granville of the 8th July 1869, on the subject of the Intercolonial Railway Loan, transmitted to the Privy Council by his Excellency the Governor General, and referred to the Board for its consideration and report. The Board have to express their satisfaction at the declaration of his Lordship, that it was not the intention of Her Majesty's Government to call in question the financial integrity and upright dealing of the Dominion of Canada with reference to the employment of those moneys.

His Lordship transmits copies of two opinions of the Law Officers of the Crown which, in his judgment, lead to the conclusion that the Canada Loan Act of the Imperial Parliament, in using the word "appropriate," required that the money should be kept or invested as a distinct fund applicable to the construction of the road, and to no other purpose.

The conclusion arrived at by the Law Officers would appear to be threefold :

1st. That it was not the intention of the Imperial Act that the money should be invested at all, but that it should be set apart or appropriated.

2nd. That the only sort of investment within its provisions would be one, the rate of which does not fluctuate, but which is convertible at any moment without loss.

3rd. That the temporary application of a portion of the loan to the redemption of the debt of Canada (in other words, the acquisition of Canadian securities) may be a useful investment but is not an appropriation of the loan.

The Board have given careful attention to the statements of the law officers, and have, in the first place, to notice that it would appear that their opinions are based solely on the wording of the Imperial Act, and that they make no allusion to the Act of the Canadian Parliament, 31 Vict. c. 13.

The Board would observe that the Imperial Act is silent as to the investment or custody of the moneys to be raised under the guarantee. It provides that the guarantee shall not be given, "unless and until" an Act has been passed by the Parliament of Canada, providing, to the satisfaction of the Commissioners of Her Majesty's Treasury, for the "raising, appropriation, and expenditure" of the loan.

A Canadian Act was passed making provision for the "raising, appropriation, and expenditure" of the loan, and it "satisfied" the Commissioners of Her Majesty's Treasury, as is evidenced by the fact that the guarantee was given.

The terms of the Imperial Act are, therefore, complied with ; that Act is executed ; its force is spent, and it appears to the Board that reference must now be had to the Canadian Act, and the financial system which obtains in Canada for direction as to the proper custody and disposition of the money raised.

Her Majesty's Government having once accepted that Act as sufficient, the Canadian Government is bound by its terms, and it is its duty, temporarily, to administer the money in the same way as other moneys at its disposal, having due regard to its ultimate expenditure on the work.

The Canadian Act contemplated the ordinary action of the constitutional power of Parliament to be from time to time exercised in appropriating the public money under its control. The construction of the railway ; the contracts and payments were left to the control, and are within the jurisdiction of the Canadian Parliament, without any other limit