

"1. That on the 7th of July, 1852, the Government of the day past an Order in Council in the words following:—Upon the memorandum submitted by the Commissioner of Crown Lands relative to the school lands in the Counties of Grey and Bruce, the Committee of Council recommend that the reduction in price from 12s. 6d. to 10s. an acre, as suggested, be approved, and that the regulations laid down in the said report be adopted, and further that a measure be submitted to Parliament to authorize the expenditure of a sum equal to 2s. 6d. an acre of the purchase money on the improvement of the roads and harbors within the said counties, and the Committee further recommend that not more than 200 acres be sold to any one individual, except upon special recommendation of the Commissioner of Crown Lands approved by His Excellency in Council.

"2. That by the Land Act of 1853, it was enacted that it should be lawful for the Governor in Council to reserve out of the proceeds of the school lands in any county a sum not exceeding one fourth of such proceeds as a fund for public improvements within the county, to be expended under the direction of the Governor in Council, and also to reserve out of the proceeds of unappropriated Crown lands in any county, a sum not exceeding one fifth as a fund of public improvements within the county, to be also expended under the direction of the Governor in Council.

"3. That at this period there were large tracts of Crown and school lands in various counties unsettled, and it was the policy of the country to encourage the settlement thereof as much as possible.

"4. That one of the greatest obstacles to settlement was the want of roads and bridges, and it was in order to induce the speedy settlement of the country, by providing means for the construction of such works that the said Order and Act were passed.

"5. That shortly after the passing of the said Act, large numbers of persons purchased and settled on the vacant Crown and school lands, and within a very few years they were well settled, four-fifths of the school lands having been settled in 1853, 1854 and 1855.

"6. That the general belief and opinion of the settlers was that they would be entitled to have one-fourth of the price of school lands, and one-fifth of the price of Crown lands expended within the municipalities in the construction of roads and bridges.

"7. That this belief and opinion was entertained by several of the Crown Lands agents who sold the lands.

"8. That several of such agents stated to the intending settlers, that if they became settlers, one-fourth of the price of school lands, and one-fifth of the price of Crown lands would be so expended as aforesaid, and that thus the price of their lands was practically less than the stated price by these amounts which would otherwise have to be raised by local taxation for the same purposes.

"9. That large numbers of settlers purchased on the understanding with the agent stated in the preceding paragraph, especially in the County of Bruce, where the population increased from 2,837 in 1852, to 27,494 in 1861.

"10. That the Government of the day, in an Order in Council, dated on 27th February, A.D. 1855, referred to the Improvement Fund as being established by the Land Act of 1853, and ordered certain expenditure thereon; and in another Order in Council, dated on 27th March, A.D. 1855, further assumed the existence and availability of the fund.

"11. That on the 7th December, 1855, the Government of the day in an Order in Council, referred to the said fund in the words following:—The Minister of Agriculture also brings under Your Excellency's notice that numerous applications have been made for aid from the Improvement Fund, created by the 14th section of the Land Act, 16th Vict., Chap. 159, which authorizes one-fourth of the proceeds of the sale of school lands, and one-fifth of those of Crown lands to be expended in the several counties in which the sales are effected. That none of this fund has, as yet, been set apart from the sales hitherto made, although an Order in Council has been passed for the expenditure of \$25,000 thereout. That it appears requisite that the Crown Lands Department should be directed to appraise the Inspector General of the amount at the credit of each county for proceeds of sale of both Crown and school lands, that the proportions accruing to the Improvement Fund may be set apart by the Receiver-General for that purpose. Out of the Improvement Fund referred to, he recommends that the following sums be appropriated for the objects hereafter stated, viz:—(Stating several applications.)

"12. That on the 28th day of July, A.D. 1856, the Government of the day passed an Order in Council in the following words:—In reference to the Fund for Public Improvements, formed under the 14th section of the Act, 16 Vic., Chap. 159, the Committee recommend that the funds derived from the sales of lands in each particular township, or other municipality, and applicable to the purposes of this fund and not already apportioned, be applied to the making, maintaining, altering, or improving the roads or bridges in each of those townships or other municipalities, respectively, and be for this purpose distributed and disposed of by and through the Municipal Council of each such township or other municipality; each such Council to report to the Bureau of Agriculture the manner of expenditure of all such monies, on the first days of January and July in each year, and at any intermediate time within ten days after having been called upon so to do by that department.

"13. That on several occasions during the years 1857, 1858, 1859, and 1860, the Government of the day, by Orders in Council, appropriated to purposes of local improvement, moneys arising out of the Improvement Fund.

"14. That books were opened in the Crown Lands Department, labelled, 'Road Improvement Fund,' with a heading to each page, in the words, 'Statements of the amounts available for public improvements on sales of Crown Lands, Grammar School Lands and Common School

Lands, under 16 Vict., Cap. 59, sec. 14, in each township, in the County of _____, in which books the accounts of the fund were kept.

"15. That on the 6th March, A.D. 1861, the Government of the day made an Order in Council in the following words:—'On the recommendation of the Honorable the Commissioner of Crown Lands, the Committee advise that the Order in Council of 7th December, 1855, authorizing the payment of the Improvement Fund created by the Land Act, 16 Vict., Chap. 159, be rescinded,'—but no order has been made rescinding that of 28th July, 1856.

"16. That no part of the Improvement Fund accruing since the 6th March, 1861, has been applied to the purposes of the fund.

"17. That large sums of money have since 6th March 1861, been received by the Government of the late Province of Canada, from the sales of Crown and school lands, made between the date of the passing of the Land Act, and the 9th March, 1851.

"18. That further, large sums have been received on account of such sales by the Government of Ontario, and further, large sums remain due on account of such sales.

"19. That large sums have been expended, and large debts incurred by the various municipalities for the construction of roads and bridges, which would otherwise have been in whole or part constructed by means of the Improvement Fund.

"20. The Committee beg leave further to report that they have appended to this their Report, the evidence of the witnesses, all of whom were persons of credit, and the material papers produced.

"21. The Committee beg leave, lastly, to report that they abstain from stating any opinion or making any recommendation, because they understand the order of reference to confine them to the ascertainment of the facts for the information of the Legislature.

"All of which is respectfully submitted.

"T. B. PARDEE,
"Chairman."

I desire, in connection with this report, to call attention to the provisions of the British North America Act, with respect to the management of the Trust Fund. Section 109 says:

"All lands, mines, minerals, and royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick, in which the same are situate, or otherwise, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same."

Section 111 provides:

"Canada shall be liable for the debts and liabilities of each Province existing at the Union."

Section 142 states:

"The division and adjustment of the debts, credits, liabilities, properties and assets of Upper Canada and Lower Canada shall be referred to the arbitration of three arbitrators, one chosen by the Government of Ontario and one by the Government of Quebec, and one by the Government of Canada; and the selection of the arbitrators shall not be made by the Parliament of Canada until the Legislature of Ontario and Quebec have met; and the arbitrators chosen by the Government of Canada shall be a resident either in Ontario or Quebec."

Under these sections by the British North America Act, arbitrators were appointed. I find that the following gentlemen were nominated for that position: Hon. D. L. Macpherson, for Ontario; Hon. Charles Dewy Day, for Quebec; and the Hon. John Hamilton Gray, for the Dominion Government. The arbitrators met from time to time, and on the 20th September, 1870, made their award. Clause 5 of the award reads as follows:—

"That the following special or trust funds and the moneys thereby payable, including the several investments of the same or any of them, are, shall be, and the same are hereby declared to be the property of and belong to the Province of Ontario, for the purpose for which they were established."

Amongst the various trusts named, some nine in number, I find the Upper Canada Land Improvement Fund, the one for which I now press this claim against the Dominion Government, who are but the trustees of this fund on behalf of the Province of Ontario, and are held to be responsible for its management. In a statement accompanying the award marked "A. A.," showing the debt of the late Province of Canada—under the head "Miscellaneous—liabilities payable in cash," I find the following sums, viz:—Due Upper Canada Land Improvement Fund prior to abolition of Order in Council, \$5,119.08; one-quarters receipts of Crown lands sales during the existence of the Upper